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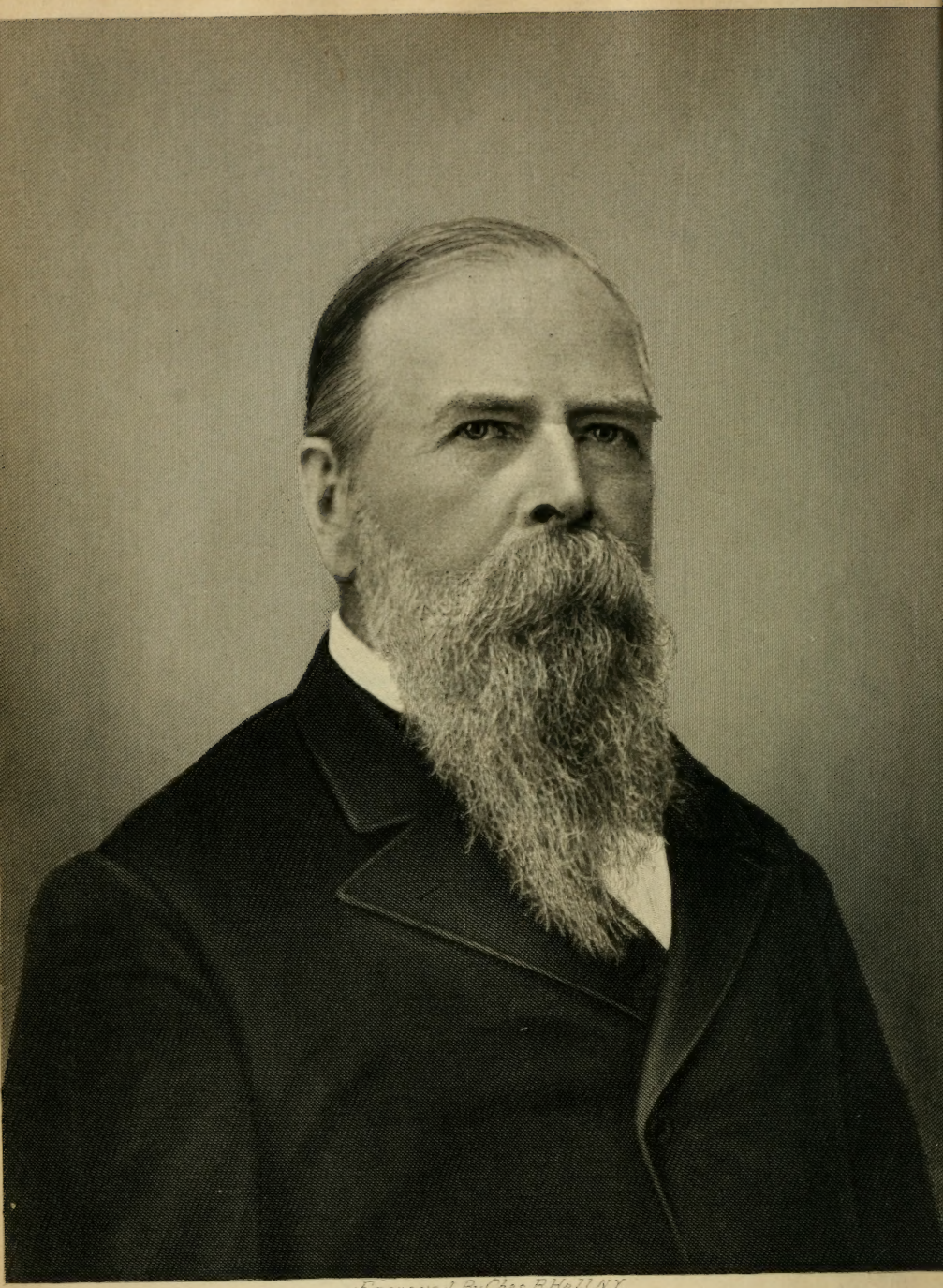
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HISTORY OF CALIFORNIA

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History of California

JOHN BIDWELL

Born in Chautauqua county, New York, in 1819; died in Chico, California, April 4, 1900; came to California with the Bartleson party, the first organized overland party, in 1841. This was, in some respects, a most noted party, not only in its personnel which contained such well known men as Josiah Belden, Talbot H. Green, Charles M. Weber, Joseph B. Chiles, etc., but from Soda springs on Bear river in eastern Idaho, they had to make their way, without guides, across an unknown desert to find somewhere to the west a river called Mary's (Humboldt), failing to find which they were liable to perish from thirst. After much suffering they reached Dr. John Marsh's rancho on the San Joaquin river November 4th and were all arrested and locked up for entering California without passports.

Bidwell took part in the Conquest serving as quartermaster of the California Battalion with the rank of major. He obtained the Rancho Chico and other grants and became a great landowner and one of the most prominent agriculturists in California; served in several public offices, but gave his chief attention to the agricultural and industrial development of his State. His record is that of a most honorable as well as a very successful man.

History of California

EDITED BY

ZOETH SKINNER ELDREDGE

VOLUME FOUR



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CHAPTER I.

GENERAL PROGRESS

IN spite of the fact that public business had been loosely or extravagantly managed from the beginning; that the state debt at the close of 1856 exceeded the constitutional limit by more than three and a half million dollars; that the people were face to face with the question of payment or repudiation and that the affairs in the cities and towns were in almost equally bad condition; in spite of the fact that the laws were only negligently enforced—that judges were often incompetent and never very energetic, while prosecutors and jurymen were inefficient and often believed to be in league with the criminals—and that honest people in many places were compelled to rely on their vigilance committees as their only sure means of defense; in spite of the losses that merchants in San Francisco, Sacramento, and Stockton had suffered from devastating fires, and in spite of the fact that the general government had done but little as yet to begin surveys, establish land offices, and open the public lands to settlement, the state had made surprising progress during the first half decade after the great inrush of settlers began, and would make more before its end.

It had far quicker, surer, and more frequent communication with the east than when the first Pacific Mail steamer arrived in 1849. The Panama railroad, begun in 1850, had been completed and opened for business in January, 1855, and larger and swifter steamers had been built to carry freight and passengers from its eastern and western termini to New York and San Francisco. One of these, the *Sierra Nevada*, made one trip from San Francisco to Panama in eleven, and another in eleven and a half days, while the *John L.*

Stephens, a sister ship, once made it in equally fast time; the average time, however, was about fourteen days. San Francisco had regular mails twice a month; "Steamer day" began to be an event in the life of the city, and the memory of it is still perpetuated in its business customs. There was also regular steam connection with Oregon on the north, and with various ports on the coast of Mexico and Central America, though after the railroad was completed the various lines competing with the Pacific Mail gradually declined or found other employment for their ships.

And it was not by steam only that California's connection with the outside world had been expedited and enlarged. Trade with China, which began late in the Eighteenth century, had caused a demand for faster ships, and turned the attention of ship builders to their improvement; but it was not until the rapid increase of trade between the eastern coast and California began in 1849, that the vast advance was begun that resulted in the clipper ships, famous in their time, particularly in connection with the California trade, although they sailed to all parts of the world. They were much larger than the ships of earlier days, sometimes being of more than two thousand tons. They were built with the view both of meeting least resistance while passing through the water, and of carrying all the canvas possible. Their hulls were long and carefully molded, with sharp prows and sterns carefully planned to permit the water to close easily about them. Their spars were tall and graceful and every yard as neatly tapered as the demands upon it would permit. With all sails set in moderate weather, they moved like the

things of beauty they were, and in storms they proved to be the staunchest of all sea going craft. Could Dana have seen one of them with all her canvas spread, that evening when he lay along the flying jib boom of the old *Alert* on his homeward voyage through the tropics, we should perhaps have a far more brilliant word picture than that famous one he has drawn for us of a ship under full sail.*

These ships reduced the average time from New York to San Francisco by nearly one-half. While the forty-niners who came around the horn had often spent from six to nine months on the voyage, these clippers sometimes made it in less than three. The *Flying Cloud* made it in eighty-nine days in 1851, and in ninety days in 1854; the *Flying Fish* in ninety-two days in 1853, and the *Andrew Jackson* in ninety days in 1859-60. The *Panama* was out only eighty-six days and seventeen hours on her first voyage from San Francisco to Liverpool in 1851, and in 1863 the *Great Republic*, 3,367 tons, made the run in one hundred and two days.

The means of communication between San Francisco and various points in the interior had also been very greatly improved. River craft running from San Francisco to Stockton and Sacramento, and even further up both great rivers, had greatly multiplied. Steamers were making regular trips, starting and arriving at stated hours. From Sacramento and Stockton numerous lines of stages ran to the smaller towns further in the interior, and even to many of the more remote mining camps, for a large part of the distance over fairly well made roads, on which the larger streams as well as

**Two Years Before the Mast, Chapter XXXIII.*

many of the smaller ones had been spanned by substantial bridges. In 1849 Adams and Company had begun to establish an express business between San Francisco and towns in the interior, and had gradually extended it during the succeeding years until it had offices in most of the mining camps. It did a banking business also, and had its principal office in San Francisco. It had, or was supposed to have, the backing of an eastern company of similar name, which had been one of the earliest to carry parcels and smaller packages from point to point regularly. For a time it had the confidence of business men and miners, and its business grew rapidly, until it had the larger part of the express and banking business of the new state.

Its principal competitor after 1852 was Wells Fargo and Company, and when Adams and Company failed in 1855, the latter succeeded to its business which it extended and improved, sending men on horse back as far as horses could go, and then on foot and even on snow shoes into the remotest parts of the mountain regions. It brought out the miner's dust from the camps, and attended to its delivery at the mint, after it was established in 1854; it also carried his letters for which he paid a special rate, and these it delivered so regularly and certainly, that it continued to enjoy a large patronage of this kind long after the miner might have sent them more cheaply by mail.

Freighting had early become a settled business between the interior towns and those which were most remote. Heavy wagons drawn by teams, sometimes of sixteen horses or mules, carried their loads to the ends of the gradually extending roads, where such parts of them as

were to go further were transferred to the backs of pack animals, which carried them to their destination. By such means the gradually extending settlements were regularly supplied.

The steamers were the only mail carriers between California and the east down to 1857. In July of that year a mail to be carried by overland stage was authorized by the post office department between St. Louis and San Francisco, over a route running through Arkansas, New Mexico, Texas, and Arizona, to Los Angeles. Stages left each terminus twice a week, and so brought California eight mails per month, instead of two by way of the isthmus. A stage line from St. Louis to Salt Lake had been established in 1850, and to connect this with California, the famous pony express was established in April, 1860. Over this line letters passed between New York and San Francisco in the short space of fourteen days, and paid postage at the rate of five dollars per half ounce.

The establishment of this direct, and for those days speedy communication between the east and west, was a matter of interest and importance to both. The first mail from San Francisco by this route was dispatched on April 3d, by the Sacramento boat. From Sacramento it went to Folsom over the Sacramento valley railroad—the first built in the state—then across the mountains by stage to Genoa, where the pony rider took it for its long journey by night and by day through the Indian country to St. Joseph, Missouri. From St. Joseph the first mail for the west was sent away with more ceremony. The pony and his rider were at the post office at half past seven o'clock in the afternoon

of the same April 3d, where many people had assembled to see them off. Some speeches were made and then the mayor brought out the mail bag containing dispatches for the "Alta," and the "Bulletin" and Sacramento "Union," forty-nine letters, and five telegrams, gave it to the rider and he was away at a gallop. Stations had been established along the whole route from ten to twenty miles apart, and at each of these a fresh horse ready saddled would be waiting, to which the rider would transfer almost without stopping; after a certain number of transfers he was relieved by a fresh rider.

The last rider on the first trip west did not stop at Genoa, but continued on to San Francisco. When he had crossed the mountains into California he began to be made aware that his arrival was looked for and would be duly celebrated. Every group of miners gave him a cheer as he flew by their camp, and every village along his route gave him a similar greeting. At Placerville guns were fired and speeches made that he did not wait to hear. At Sacramento the legislature adjourned in honor of his arrival. The city was gay with flags and crowds lined the streets along which he was to pass. A troop of horsemen went out to meet him and escort him into town. At five o'clock in the afternoon, amid the booming of cannon, ringing of bells and cheering of the multitude, horse and rider were taken on board the steamer *Antelope*, and sent off to San Francisco. There another demonstration was awaiting them. News of their coming had been telegraphed from Sacramento and was announced in all the theatres, to members of the engine companies, and circulated

generally through the streets. Before midnight a crowd such as had not assembled since that February morning eleven years earlier when the *California* arrived, filled the streets. Bonfires blazed in all directions; four gaily decorated fire engines with a band of eighteen pieces were waiting to head the procession, and when the steamer touched the wharf, pony and rider came forth and were escorted by a wildly cheering multitude to the post office.*

The first trip of the pony fast mail across the continent had been made practically on time, and it continued to be so made until the telegraph was completed in 1861, except when, as occasionally happened, a rider was killed by the Indians or by outlaws; and then the mail was rarely delayed more than a few hours.

In 1853 a telegraph line was built from San Francisco to the entrance to the Golden Gate, and this was the first telegraph in California. Its principal, if not its only use, was to announce the approach of steamers, and it replaced the semaphore which had been previously depended upon to signal their arrival to the station on Telegraph hill from which the news was announced to the city by means already explained. In 1852 work was begun on a telegraph line to connect San Francisco and San José, Stockton, Sacramento, and Marysville, and it was completed in 1853. Another line later connected San Francisco with Nevada City by way of Auburn and Placerville. This line was extended as far north as Yreka in 1858. In 1859 a line was built to Los Angeles, by which it was expected that the news brought by the stages would be forwarded considerably

**Alta California* and other San Francisco newspapers, April 14 and 15, 1860.

earlier than otherwise to the San Francisco papers; but the line from Placerville was extended to Carson City at about the same time, where much later news was received by the pony express, so the Los Angeles line was not as valuable as had been expected. In 1861 the first line across the continent was completed and thenceforth California had direct communication with the east.* When the war began in 1861 the stage line by the southern route was discontinued, and a more direct line by way of Salt Lake was opened. Over this the letter mails and such express matter as could pay the high rates charged, were carried until the completion of the first transcontinental railroad in May, 1869.

While California was still best known for its mines in 1856, its people had much earlier awakened to the fact that mining was not its principal resource. Many of them had thought most of it of little value for anything else upon their arrival. Delano thought so, although he had soon found reason to change his mind, while Bayard Taylor had been of opinion, almost from the first, that its agricultural resources would prove to be great. He had seen the ripened crops on the Fisher and Murphy ranchos in the Santa Clara valley while on his way to Monterey in September; had ridden through the standing corn of the Castros, where after dining with their hospitable owners on beef, green corn, and tortillas, two ripe watermelons had been rolled to him for dessert, all of which gave him a favorable opinion of the country as it well might. But the settlers, arriving as most of them did in the late summer

*The first dispatch over this line when completed announced the death of Colonel E. D. Baker at Ball's Bluff.

or early fall in the unsettled part of the state, found the great valleys dry and sear, their scanty herbage withered, and their soil, baked by the sun, opened in great seams, showing it to be as dry as ashes to a depth far deeper than the roots of either wheat or corn could go to find moisture.* While these valleys were covered in many places with a heavy growth of wild oats now ripened, the settlers could hardly believe they would ever produce anything else by any kind of cultivation with which they were then familiar. The red soil of the smaller valleys in the foothills and mountains had no very attractive look to people who were familiar with the rich black loam of the Ohio, Missouri, and Mississippi valleys; but the first rude efforts at cultivation showed that it had virtues and would produce abundantly. Fine crops of hay were gathered during 1850 and 1851, in the Onion and other valleys, and the first efforts at growing vegetables were well rewarded. Sutter had grown wheat in the neighborhood of his fort, and on Hock farm above Marysville, and various other of the earlier settlers had found their labor similarly rewarded. An old German named Schwartz, living about five miles below Sacramento and not far from the river, planted a few acres of melons in the spring of 1849, and in the fall cleared nearly $30,000 from his venture, his melons readily selling to the immigrants and miners at from one to three dollars apiece. Another melon grower in 1851 cleared about

*William Thompson in a report to the state agricultural society from Fort Miller and Millerton in Fresno County in 1858, says: "There is no land worth speaking of which admits of cultivation for several miles from either place. * * * The beautiful level plains of the San Joaquin Valley in our vicinity are at present valueless except for the scanty pasturage they afford."

$20,000 from his crop. It could not be that these had hit upon the only good land in the valleys. If the ground would grow melons it would certainly grow other crops with which the immigrants were familiar, and so many of them were encouraged to make ventures at farming.

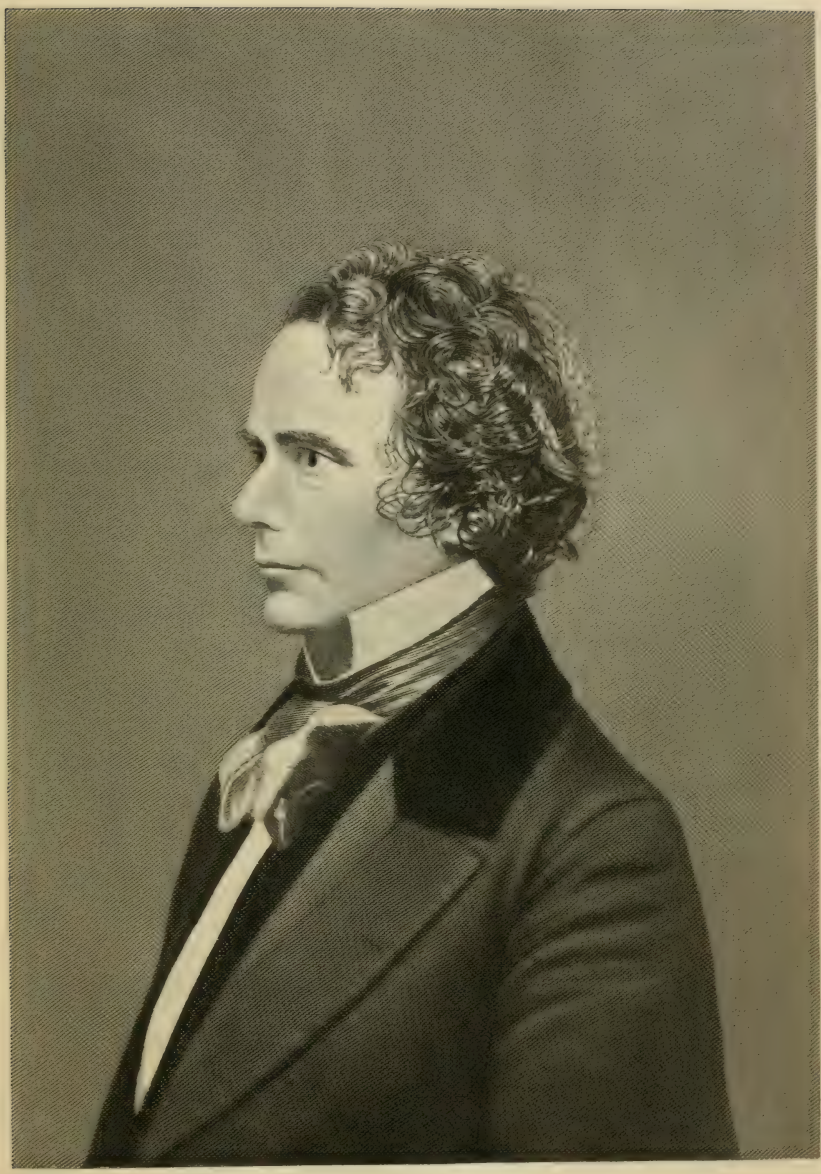
Their efforts were at first much hampered and delayed by the slowness of the national government in beginning surveys and opening land offices. The first appropriations for this purpose were made in 1852, and it was a year later before the settlers began to derive benefit from it. The indefiniteness of the boundaries of the Mexican land grants, and the dubious title to some of them, also continued to cause annoyance as well as much loss of time and effort.* But notwithstanding all these drawbacks cultivation of the soil was begun more or less actively, and the importation of food products from Chili, China, or the Atlantic states, on which the miners had depended for the first three or four years after gold was discovered, gradually diminished until it ceased entirely. In January, 1853, William Van Voorhees, secretary of state, reported to the legislature that California had nearly 111,000 acres of land under cultivation,† producing almost three million bushels of barley, 272,000 bushels of wheat, 1,193,000 bushels of potatoes, and 63,000 bushels of corn. In 1856, Governor Bigler in his message to the legislature, called attention to the fact that California

*For a fuller statement of this difficulty see Vol. V, Chapter VI.

†This was merely an estimate, based on reports he had received from county auditors, and was no doubt too high. The census of 1850 had shown 32,454 acres in cultivation; but by 1855, according to figures quoted by Hon. Samuel B. Bell in an address to the State Agricultural Association in 1858, 257,630 acres had been improved; by 1858 it was estimated that the area had increased to 756,734 acres.

SAMUEL B. BELL

Born in Orange county, New York, in 1817; died in Santa Barbara, California, in 1897; came to California in 1853, one of a party of eight clergymen sent out as missionaries by the Presbyterian General Assembly, arriving at San Francisco, March 20, 1853, on the clipper ship *Trade Wind*, 102 days from New York via Cape Horn, one of the record voyages. Mr. Bell was the first minister of the First Presbyterian Church of Oakland, organized March 20, 1853; he was one of the incorporators of the College of California, predecessor of the University of California, and was largely instrumental in the establishment of the University. He was Chairman of the first Republican Convention in 1856; in 1857 and 1858 represented Alameda and Santa Clara in the Senate, and in 1859 was one of the candidates for the Republican nomination for governor. Dr. Bell was large, erect, and of commanding presence with a graceful carriage; an effective speaker, self-denying and self-forgetful, his influence and usefulness in the community was great.



Samuel Bookstaver Bell

THE NEW YORK
PUBLIC LIBRARY

wheat was regularly quoted in the market reports of New York, and that more than a million dollars worth of wheat and barley had been exported during that year. "In horses and mules," the Governor said, "California was excelled by only sixteen states, in cattle by seven, in wheat by nine, in barley by one; in potatoes sixteen produced less, and in wine none so much."

An agricultural association had been started in 1854, and had held its first exhibit "in one small room in San Francisco." To make some sort of show and fill the vacant spaces in the room, fruits and productions were imported from other lands and from the isles of the sea,* and a Fiji islander in full costume had been exhibited as a principal attraction. The society had prospered, but had no permanent home until 1859, its annual exhibitions being given sometimes at Sacramento, and again at Marysville or Stockton. By 1860 it could boast that one Californian, a resident of Santa Clara county, had invented and was manufacturing one of the best reaping machines in the world, while another at Alameda had contrived a machine that reaped, threshed, cleaned and sacked the grain all at the same time.

The society was also doing much to encourage fruit growing, although lack of market, and lack of appreciation of the value of fruits as food among people generally, retarded its progress. A. H. Myers of Alameda had brought some young trees of various kinds very early, probably the first since the time of the padres, and J. Lewelling of San Lorenzo had

*Speech of Samuel B. Bell above quoted.

brought the first nursery stock by the overland route. Both were doing something in the nursery business. Louis Pellier had started a nursery near San José in 1849, and in 1856 his brother Pierre had joined him, bringing from Europe a considerable supply of grape cuttings of various varieties, as well as some young prune trees, probably the first to arrive in California. In the south William Wolfskill and others had long been growing citrus fruits, grapes, almonds, and walnuts with success, though without much profit; but by 1867, according to a circular letter sent out by residents of San Francisco in answer to questions most frequently asked by people seeking information about California,* it is stated that the farmers were then beginning to dry and press their fruits and ship them to the Atlantic cities. The cultivation of the silk worm had also been begun with high expectations of success, which however, were not realized.

Progress had also been made in manufacturing. Lumber was naturally among the earliest needs. The miners required it for their rockers, long toms, flumes, and sluices, and much larger quantities were required in the cities for building houses, wharves, and other purposes. The mills started by Isaac Graham, Lassen, and Smith before the discovery of gold, were too far away from the centers of demand in 1850, and had they been nearer they could have supplied only a small part of it. Puget Sound and Oregon were for a time drawn upon; but their mills could not supply the needs of the interior except at very high prices, and so mills were established as early as 1852 in San Mateo,

*Quoted by Ross Browne in *Resources of the Pacific States and Territories, p. 269.*

and in Butte, Yuba, Calaveras, Stanislaus, and various other counties. San Francisco was largely supplied by four steam mills in Marin county capable of sawing 9,000,000 feet per year. The eighteen mills in Yuba county produced nearly as much. There were three steam and eleven water mills in Butte county, while mills for making sash and door and other finishings rapidly followed.

Ship building was begun at Benicia, Sausalito, Stockton, and at Humboldt bay at a very early day. At Benicia and Sacramento some small steamers were also built. The first ocean going steamer built in California was the *Del Norte*, which had eighteen state rooms and was launched in December, 1864. The first carriage factory began business at Los Angeles in 1849; small shops for making and repairing the heavy wagons for the freighters were begun at Sacramento and Stockton a little later. A mill for the manufacture of coarse woolens began business in San Francisco in 1861; it was soon burned but afterwards rebuilt and became a prosperous institution. There was also a rope walk established in San Francisco in 1866. The first paper mill in the state was in Marin county, and began business in 1857. The first iron works were established by the Donohue brothers in San Francisco in 1849. Their establishment grew into the Union Iron Works of the present day, where the first locomotive built in the state was finished in 1865, and where some of the heaviest and most expensive mining machinery, and some of the largest warships have since been built. In 1850, the Vulcan and Pacific foundries were begun. It is claimed that the first miner's pick and the first

iron plow made in the state were manufactured at Santa Cruz, where a considerable amount of mining implements were afterwards made. Iron works were begun at Sacramento, Marysville, and Benicia in 1852, and in 1860 San Francisco had fourteen foundries and machine shops employing 220 men. Beer and vinegar were made at San Francisco and Sacramento as early as 1850, at Stockton and Marysville in 1851, and at Los Angeles in 1854. The demand for leather early called for the establishment of tanneries which found material abundant and their business very generally prospered. Stephen Smith, who had brought the first steam engine to the state and started a saw mill and grist mill at Bodega as already related, set up a tannery at that place in 1851, and tanneries were established at many of the interior towns as early as 1852. Cooperage and woodenware factories were also established in the early fifties. Billiard tables were made in San Francisco in 1855, and pianos in 1856. In 1856, forty-two hundred barrels of flour were exported to China; the extra export of flour for that year amounted to 116,000 bags.

Mining continued to be the state's principal resource down to 1860 or possibly later. The yield of the placers reached its maximum in 1852 when the recorded output was $81,294,700; that for 1854 was $69,433,931,* after which it steadily and somewhat regularly declined. With the decline of the placers other kinds of mining were prosecuted by steadily improving methods. The quartz mines which in 1860 yielded only $2,000,000

*_Report of State Board of Agriculture, 1913._ J. Ross Browne makes the output for 1855 $57,300,000 and thinks it the highest of any year.

according to Browne's report, in 1867 produced $9,000,000, while the deep mines in which shafts or tunnels were sunk through beds of clay or cement to pay gravel yielded $18,000,000.*

The general progress of the state was in no way more strikingly manifested than in the growth of its cities and towns, and the improvement in the character of their inhabitants. Many of the mining camps had become prosperous villages as early as 1855, although some of them which were very prosperous for a time, with well built homes, churches, and school houses as well as business buildings, were afterward entirely deserted. Others had a varying experience from extreme prosperity to extreme depression. Sonora which in 1849 was believed to have a population of five thousand, had perhaps less than half that number a year later, as many of its residents had been driven away by the oppressive foreign miners tax. It subsequently revived and became prosperous, though suffering as the other towns did from occasional periods of depression. Nevada City and Grass Valley grew steadily from the start, while towns which depended less intimately on the mines for their support, like Benicia, Oakland, and San José, had a generally steady growth. Oakland, although afflicted as many other towns were with troublesome squatters in earlier days, was incorporated as a city in 1854, and boasted of a college in 1855, down to which time it had only occasional communication with San Francisco by steamers, though soon after a ferry boat making regular trips was established.

*Resources of the Pacific States and Territories, p. 8.

Of all the interior cities Sacramento was easily first for a half a score of years after the gold discovery. As early as 1850 it had four banks, and it was the center of supply for much the larger part of the mining region. In 1855 its merchants enjoyed a trade valued at $6,000,000 per month. Seven hundred teams were employed in transporting goods from it to other towns and mining camps. In 1853 twenty-three steamers visited it more or less regularly, and in 1856 twenty-four stage lines radiated from it in all directions, while its manufacturing output was valued at $300,000 per month. It was the city most frequently visited by miners from the Mokelumne to the Feather and even farther north. They drew their supplies from it, shipped their gold dust to it, and visited it both for business and recreation. It was only when they had made a particularly lucky find, or sold out, cleaned up and made ready to return to their friends in the east, that they went "down to the bay," as they were accustomed to speak of San Francisco. Such a trip was a notable event in their lives. It was like going to Europe or to China. They expected to see there things not to be found except in the great cities of the world, and the miner who had been to "the bay" and returned was as much an object of interest, as if he had been within speaking distance of the world outside.

Sacramento had its full share of troubles such as afflicted San Francisco, Stockton, and Marysville and the other larger towns. It had its share of thieves and cut throats, and more than its share of gamblers. It had an extravagant and incompetent government at times. An epidemic of cholera carried off a large num-



THE CAPITOL AT SACRAMENTO
From a photograph by Gabriel Moulin.





ber of its inhabitants in 1850. It had been overflowed by the sudden rise of the river during the rainy winter of 1849-50. Its common council appropriated $250,000 for dykes and levies in the following year and although levees nine miles in length and from three to six feet high were built, they did not protect it against a similar overflow in the winter of 1854. Its squatters were particularly numerous and troublesome. Many of the earlier immigrants seemed to be wholly unable or unwilling to understand that Mexcan land grants were valid. Some seemed to prefer to fight for a small piece of some grant rather than try to gain peaceable possession of something equally or almost equally good that was as yet unclaimed. So there was trouble more or less continually in San Francisco, Sacramento, and Stockton, as well as about farm lands, and the trouble was increased by various court decisions, until October, 1853, when a decision by the Supreme Court, confirmed the title of cities as the successors of pueblos, to the land granted to them, and so gave strength to all valid Mexican grants in general.*

Sacramento's most diastrous fire occurred on November 2, 1852, when $5,000,000 worth of property was destroyed, no part of which was insured. But as in the case of San Francisco, the city was quickly rebuilt and with far better materials than before. In 1854 its real estate and personal property were assessed at $5,400,000. In 1853 its principal business streets were planked and sewered. A regular water supply system was installed soon after the fire of 1852,

*_Cohas vs. Rosin and Legris_—Opinion by Justice S. Heydenfeldt, concurred in by Chief Justice Murray and Justice Wells.

a gas company began business in 1856, and as early as 1861 a street railway began to be talked about. It had two daily newspapers in 1852, public schools in 1854 and all of the principal religious denominations had well built churches as early as 1855 or earlier.

Stockton also had a large patronage from the mines. In 1856 its merchants claimed that an average of two hundred tons of freight were received and distributed from it every week. Seven stage lines made it their principal terminus.

Marysville, though suffering much from early fires and inundations, claimed a population of forty-five hundred in 1852, and of eight thousand in 1855, in which year the assessed value of its property was $3,320,000. It was incorporated in 1851 and in 1860 claimed to be the third city in the state.

Placerville, situated as it was in the center of one of the richest mining regions, had a very rapid growth during the earlier years. In 1854 it polled the third highest vote in the state. The weekly yield of its gold mines averaged from six thousand to eight thousand ounces. Fire destroyed a large part of the town in 1856, but like other towns it was rapidly rebuilt. With the decline of surface mining its growth was halted for a time, but was revived again by the Washoe mines in 1860, after which, being on the main stage line crossing the mountains to Nevada, it enjoyed a number of years of continuous prosperity.

The moral tone of San Francisco had been notably improved as the result of the work of the vigilance committee of 1851. The worst of the Sydney coves and other desperate characters had been hanged or

STOCKTON

On his rancho Campo de los Franceses (French Camp, in the vernacular), at the head of Mormon Slough, on the San Joaquin river, Charles M. Weber established a little settlement in 1847, and had a town laid out by Jasper O'Farrell, calling it Tuleburg, and, after the gold discovery, opened a store to supply the southern mines. In 1849 he had O'Farrell's survey extended by Major Richard P. Hammond and called the town Stockton. It is now a city of 40,000 population.





driven away. The discovery of gold in Australia and the glowing reports received from its mines, led many of the worst characters who had come to California from that country, to return to it, and many who were not much better than they were, followed them. Many honest and enterprising gold hunters were also drawn thither, and their departure retarded the progress of the state for a time; but most of them soon returned after finding that the Australian placers were no richer than our own, while a heavy foreign miners tax made the prospects of profits very doubtful.

By the census taken by Secretary of State Van Voorhees in 1852, San Francisco was shown to have a population of 36,151, although many people believed it to be over 40,000, which was quite probable as the enumeration was not very carefully made. There was notably a much larger number of women among these thousands than in any previous year. Many earlier residents who had probably not intended to remain permanently, had sent for their families and most of the later arrivals had brought theirs, so that the proportion of women to men seen in the streets was not far different from that of other cities. Commodious, well built, and comfortably furnished homes were to be seen in many of the outlying districts. Along Stockton street, then the favorite residence neighborhood, there were a number of substantially built brick residences, surrounded by well kept gardens and displaying evidences of taste and elegance. Montgomery, Kearny, Clay, Washington, Commercial, Merchant, and other streets were lined on either side by brick or stone buildings, usually of two stories, but

sometimes of three or four and presented a very substantial appearance.

Theodore Winthrop, who had been employed by the Pacific Mail Steamship Company at Panama, visited the city in March, 1853 and in letters to his family described its activity as "appalling." On approaching the Golden Gate his steamer was boarded by news boats and its arrival was announced by a succession of telegraphs. He was astonished to find an array of ships in the harbor apparently as great as that in New York. They were fine ships, some of them lying out in the stream while others were blocking the crowded wharves. Back of them stretched an extent of city seemingly interminable. The wharf and the steamers were filled with people awaiting the arrival of his steamer, and "there was far more bustle, and noise, and throng than ever on a similiar occasion at home." The sand hills on the original site of the city were being cut away and the water in front of it filled up, until an office which once was at the water side was now more than a half a mile inland. The portion of the city upon this filled ground was composed of small wooden buildings, and further in upon terra firma there were many substantial edifices of brick and stone, some being really good in architecture and appearance. The grading of the hills, still going on, made progress about the city more or less difficult in places, and in making a call he had found the easiest way of getting away, was to step down a sand bank eight feet high. The city was indeed an astonishing place. It seemed a realization, in rapidity of growth if not in splendor of the old time fairy tales. It was

more alive at night than during the day. Shops were in full blast and the gambling houses filled. Night auctions of old clothing and new hats and all kinds of goods were common. The streets were all covered with wood, and as one walked along upon a very wet footing, enormously thick boots were necessary. Except the unfinished state of everything, there was no air of a new place about San Francisco. The men were all well dressed, and looked as if they had seen the world. The shops were handsome within and the display of goods sometimes brilliant. The restaurants were furnished handsomely, and more in the European style than he had been accustomed to see in Boston. People in business lived luxuriously and worked hard. "The general tone of the city is bricky and dusty," he says, "almost all the new buildings being substantial fire proof structures. It may safely be called the dirtiest place in the world. A single day will transform it from a slough navigable only in a pair of gaff topsail boots, to an ankle deep dustpan; and when you consider that in all the immense street traffic there is hardly a half block where there is not cutting or filling or pulling down, you may imagine that the springy plank pavements send up dust thicker than a London fog."

His second Sunday in California was spent at Benicia where he says "some people interested in real estate, had persuaded the Pacific Mail Steamship Company to establish its depot, bribing it by the present of a tule ground or peat bog, and the company had wasted enormous sums in establishing its works there.*

**The Canoe and the Saddle*, republished by John H. Williams, Tacoma, Washington, 1913.

So much digging down and filling in, together with the excavating for new and more substantial buildings that was going on here and there left many sunken spots that became ponds when filled by the winter rains. They were also catch basins for all sorts of unwholesome things, which made them not only offensive but a dangerous menace to the public health. The town was also infested with rats—"huge, fat lazy things," and "pedestrians at night, stumbling along the uneven pavements, that were only a series of quagmires, would occasionally tread on the loathsome things and start back in disgust and horror, muttering a curse or two at such a villainously unclean town."

But this state of things soon passed away after the down town grades were corrected. The unwholesome pools were filled up, the streets drained by permanent sewers, and the rats banished by the removal of the offal and other rubbish on which they fed.* A permanent water supply system was in prospect, though its completion was delayed by various untoward circumstances. A water company had been chartered in June, 1851, but work was not actually begun until May 14, 1854. Even then it was not continued uninterruptedly, and water from Lobos Creek—the first regularly supplied—was delivered in 1858. Meantime the city was supplied, as it had been in its earlier days by water from springs and artesian wells, and finally by tank steamers which brought a steadily increasing amount of it from springs near Sausalito.

The city was first lighted by gas on the evening of February 11, 1854, and the event was celebrated by a

*Annals of San Francisco, p. 419.

banquet at the Oriental hotel for which some several hundred covers were laid. The price of gas was at first fifteen dollars per thousand feet. Previous to its introduction the streets had been lighted only by a few oil lamps, and by the glare from the shop windows. The first of these lamps were erected in Merchant street in 1850, and the light furnished was paid for by private subscription. Early in 1852 ninety lamps were erected in Montgomery, Clay, Washington, and Commercial streets, and later in the year Battery, Kearny, Jackson, and California streets were lighted.

During all these earlier years from 1851 to 1856 one might meet in the streets people from every quarter of the globe, each wearing the garb of his country. Unshaven and unkempt miners were there but they did not predominate. Business men were better and more carefully dressed, and they no longer resorted to the gambling houses or saloons to confer together as they had formerly done. Gambling was not carried on as openly as before. The El Dorado, the Bella Union, Dennison's and similar places did not flaunt their attractions in the faces of every passer by, or attract visitors by bands of music. Business men resorted to the Merchants Exchange for such information as was gathered there from incoming ships; met their out of town customers in the lobbies of numerous well appointed hotels, or entertained them at one or another of half a dozen theatres. The Exchange had then just taken possession of its new and commodious building on Battery street between Washington and Jackson, while across the way was the new custom house. In March, 1852, a public library had been

opened by the Mercantile Library Association, with about 1,500 volumes on its shelves, most or all of which had been contributed by subscribers, who had also provided funds for its maintenance. All the city newspapers, as well as many published in the east were kept on file for the general benefit of subscribers. Occasional lectures and readings were given there, and debates were held on political and other subjects. A year later the number of books had increased to 3,000 and the institution was becoming popular.

The city council had purchased the Jenny Lind Theatre on Kearny street opposite Portsmouth Square in June, 1852, against the vigorous protest of most tax payers, paying $200,000 for it, afterward remodeling it at very great cost; and changing administrations carried on the government from that costly center about as incompetently and extravagantly as formerly. Following the rearrangement of the government under the new charter of 1851, the city's expenses had been reduced from about $1,700,000 to $340,000 annually, and a part of its debt paid, though at the cost of increased taxation. The reform, however, was short lived; the citizens became negligent of their duties, and spoilsmen soon regained control. City and county expenses were quickly increased to the former figure; but as the gold output for the year 1852 was the largest in the history of the state, business prospered accordingly, and people paid rather than take the trouble to elect better men to office when occasion offered. By 1854 things had become about as bad as they could be without provoking a popular uprising. It was in that year that Henry Meiggs—"Honest Harry," as he was called—was a

member of the council. He was a lumberman, controlling a mill in Mendocino county and a yard at North Beach. Through his efforts as a councilman much public work was done in the northern part of the city, particularly on Powell and Stockton streets. He cut a road around Telegraph hill from Clark's point to his lumber yard, and also built a wharf two thousand feet long, extending to deep water, in an effort to convince the people that North Beach, near which he had large holdings of real estate, would be a prosperous part if not in fact the real center of the city. His enterprise might have prospered had the flush times of 1853 continued, but unfortunately, they did not. A period of depression began in 1854 and he was unable to borrow the money needed to carry on his numerous undertakings by any honest means; and the careless manner in which the city's business was conducted opened an easy way to get it dishonestly. Most of the street improvements and other public works were paid for in city warrants, and these warrants were sometimes signed in blank in considerable numbers. As a city official Meiggs was naturally about the city offices a great deal, and he easily procured enough of these signed warrants which he used as collateral for loans, to meet his necessities. But the rate of interest demanded—sometimes ten per cent a month—increased his demands so rapidly that exposure, which was inevitable from the first, soon became imminent, and to avoid facing it, he left the country on the night of October 6, 1854, accompanied by his family. He was next heard of in Chile and then in Peru, where he subsequently made a large fortune by railroad building,

bought up the claims of many, if not all his San Francisco creditors, and sought to arrange matters so that he might escape arrest and prosecution if he returned to California, but in this he never succeeded. A susceptible legislature in 1874 passed an act directing all indictments against him to be dismissed, and forbidding that any others be found; but Governor Booth vetoed it, and although it was passed over the veto, Meiggs was too fond of his liberty, which a vast fortune accumulated in railroad building had made more than ever agreeable, ever to venture to take advantage of it.

The business center of the city continued to be north of California street during most of the first decade of its existence. Market street was a desert region and long ended at the huge hill of sand which a steam shovel laboriously struggled to remove. South of it was the chief manufacturing center, where new industries were steadily added to the old, giving it an air of great activity. Rincon hill was gradually taking on the character of a favorite residence district, and giving promise at no distant day to rival Stockton street.

The first apportionment of state funds for school purposes was made in 1854, though schools had been established in most towns, and even in many mining camps much earlier. There was a private school in San Francisco as early as 1847, and a school house was erected on Portsmouth Square in 1848. The first school ordinance in San Francisco was adopted in April, 1850, and by another ordinance in 1851 the city was divided into seven school districts. Three schools were opened in this year with James Denman, E. Jones and J. Tracy as principals. One of these was exclu-

sively for boys and another for girls. The boys' school was on Fifth street near Market and became the Lincoln, while the school for girls was on the northwest corner of Mason and Bush streets and was named for Denman. These were both famous schools in their time; the buildings were burned in 1906. The fine new Denman school is now at the corner of Hayes and Pierce streets. A public school was opened in Monterey in 1849 by Reverend S. H. Willey. There were schools at Santa Barbara in 1850, and at Los Angeles, Benicia, Sonoma, and Stockton in 1851.

By 1855 planking in the principal streets of the business district began to give way to more substantial pavements. These at first were made of cobble stones, as in most eastern cities at that time, rough and very noisy it is true, but very durable, easily drained, and free from the noisome odors that are inseparable from rotting planks. Portsmouth Square, an unkempt and untidy place as it came to be after the numerous fires which began and raged in its neighborhood in 1850-51, was swept, graded, and generally put to rights about the time that planks began to give way to permanent pavements, and for a number of years was the city's principal park.

An omnibus line carrying passengers over the planked roads between the city and the mission began business in 1852, and after Harry Meiggs had opened his road around Telegraph hill to North Beach, the stages of another line made regular trips over it. Other lines were established gradually as there was need for them, and these furnished the only means of regular commu-

nication between the business part of the city and its outlying districts until 1863 when the first street car line was established.

During these earlier years the market was at times largely overstocked with certain lines of goods, while in others stocks would be wholly exhausted. The supply of print paper ran so short at one time that all the newspapers were reduced in size, and some were printed for a few days on any kind of paper that could be procured. Wide awake traders sometimes made handsome profits by watching the stocks of staple articles, buying up all that could be had of those that were running low and so cornering the market. One of these is reported to have made a handsome profit on candle wicking at one time; another boarded an incoming ship before it entered the harbor and bought all the miner's shirts in its cargo. So much time was required for goods to make the long voyage around Cape Horn, that merchants were often unable to supply all the demands of their customers, though after the Panama railroad was completed and the clipper ships in operation, orders could be sent by one route and goods returned by the other in half the time formerly consumed, and their troubles were very much lessened.

In 1854 the work of fortifying the harbor was begun. Down to that time the city had no better means of defense against a foreign attack than that afforded by the ancient *Castillo de San Joaquin* and its antiquated and well rusted cannon which Frémont had spiked so valorously in 1846; and some batteries of light guns sent out by way of Cape Horn and placed at various points along the shore of the bay and harbor. The

CASTILLO DE SAN JOAQUIN IN 1852

Note the Cantil Blanco surmounted by the Castillo de San Joaquin. Reproduced from Bartlett's Narrative for "The Beginnings of San Francisco."





new works were to consist of a fortress of one hundred and fifteen eight and ten inch guns at Fort point; another of one hundred guns on Lime point opposite, and an inner line to consist of batteries at Black point, Alcatraz, and Angel islands.

The branch mint, for which an appropriation had been made in 1852 but diverted to another purpose, was established in 1854 in a brick building sixty feet square and three stories high, on Commercial street between Montgomery and Kearny. It was provided with machinery capable of coining $2,500,000 per month, and began operations on April 3d. The coins it turned out rapidly replaced those then in circulation, which were perhaps of a more miscellaneous character than could then or since be found in any other place on earth. Besides the American, English, French, and Spanish coins there were Indian rupees, Dutch and German florins and guilders, and gold and silver coins from various American states. Spanish pesetas worth nineteen cents, French franc pieces worth about twenty cents, the English shilling, the Mexican double real and American quarter dollar all passed current as of equal value; the Indian rupee, worth forty-three cents, was readily taken for half a dollar, and the English crown, French five franc piece, Mexican and American dollars, were all dollars. The smaller coins of all countries were all alike bits. There were no copper coins, and nothing was bought or sold for less than a bit. When American dimes and five cent pieces began to circulate, a purchaser buying anything valued at a bit and giving a two bit piece in payment, got back a dime or short bit in change, the seller retaining the long bit, or fifteen

cents for his part. This was the every day custom and was never questioned except by newcomers not yet acquainted with it; but any one making a purchase of the value of two bits and tendering two dimes in payment was looked upon as attempting to take an unfair advantage, and his patronage was not sought after.

More than four years went by after the arrival of the *California*, before any noteworthy mishap occurred to a vessel attempting to enter or leave the Golden Gate, although no light houses had yet been established, and few of those other aids to navigation on which mariners rely had been provided. The work of surveying and charting the coast had been begun in 1849, but with inadequate means for an undertaking of such magnitude and for which there was such pressing need, and it was much interrupted and delayed by the disturbed conditions which then prevailed.

So slow in fact was the government in providing even what was most urgently needed, that the Pacific Mail Steamship Company maintained a siren at Point Lobos for a number of years at its own cost. Until this siren was established ships had absolutely no artificial help to quide them to the entrance in thick weather, but all passed in and out safely until the morning of April 6, 1853, when the *Tennessee*, a Pacific Mail steamer from Panama, with about six hundred passengers on board, went on the beach at what has since been known as Tennessee cove. Only a little more than a month later the *Lewis* of the Nicaragua line, with three hundred and eighty-five passengers, among whom was Captain,

afterward General W. T. Sherman, went ashore about six miles farther north. All the passengers of both ships were saved, though the ships were lost.

It was not until the following year that the first light houses on the coast were established—one at the south-east Farallone and one on Alcatraz island. In 1855 the light houses at Fort Point and Point Boneta were established—the light at the former being exhibited for the first time on the evening of March 21st and that from the latter on April 30th.* A bell boat was placed outside the bar in March, 1858. The light at Point Reyes shone for the first time in December, 1870, and that on Yerba Buena island in 1875. It had been planned to exhibit the first light from Point Conception, but the lens sent out was not of the kind ordered and the light was not shown until February 1, 1856. A light was shown at Santa Barbara on December 1st of the same year.

In subsequent years several notable disasters occurred some of which were attended with great loss of life and treasure. On August 30, 1854, the steamer *Yankee Blade* left San Francisco with eight hundred and nine-teen passengers, including thirty-two women and thirty-one children, and on the afternoon of the day following, in a dense fog, ran on the rocks at Point Argüello. All the passengers and crew except eighteen who were drowned in launching the first boat were taken off in safety.

The steamer *Central America*, carrying four hundred and seventy-five returning Californians, and $1,500,000 in treasure, was wrecked during a storm off the coast

*Report of the United States Geological Survey, 1858, pages 330, 332.

of Florida, in 1857, while on the way from Panama to New York, and four hundred and eighteen lives were lost, the women and children and four men being rescued by a passing ship.

A more distressing disaster occurred in February, 1862, when the steamer *Golden Gate* was burned at sea on Sunday, February 27th, while en route to Panama. She had two hundred and forty-two passengers on board, twenty-seven of whom were children, a crew of ninety-six and $1,400,000 in gold. The fire began late in the afternoon while many of the passengers were at dinner, and was announced to Captain Hudson while at table. Captain Pearson, an experienced officer, was also on board, and at Captain Hudson's request, sought out the fire and took charge of those who were fighting it, while Hudson turned the ship directly for the shore only three or four miles distant, ordering all the passengers into the forward part of it. Only a gentle breeze was blowing and the sea was reasonably calm. Before his order could be obeyed by all, the fire broke out amidships and those in the after part, nearly one-half of the whole, as is supposed, were gradually forced to jump into the sea or be burned alive. Only five of the ship's ten boats could be reached—as the flames cut off all access to the others—and with these only eighty lives were saved after the vessel was run on the beach three hundred yards from shore.

The steamer *Brother Jonathan*, while on the way from San Francisco to Portland, Oregon, struck a sunken rock off Crescent City on July 30, 1865, and went down with all on board—one hundred and nine passengers and a crew of fifty-four. Among the passengers were

James Nisbet of the "Bulletin" and General George Wright who had been in command on the coast during the war. The general was accompanied by his wife, and as the ship sank was seen by persons on shore to wrap his coat about her and sink beneath the waves while holding her in his arms.

The flush times of 1853 were followed by a period of depression, beginning in 1854 and ending in disaster for many who had believed themselves to be wealthy. The yield of gold from the placers had begun to decline in 1853. Fewer immigrants arrived that year, while a change of employment from mining to farming on the part of many who had previously arrived, reduced the demand for food supplies from abroad, and so left many who had formerly made money by importing them with large stocks on their hands that were no longer salable. All this brought about a change in business methods and conditions for which many beside the provision merchants were unprepared. Prices were gradually falling to a natural level, and surplus stocks offered at auction were sometimes unsalable. The clipper ship *Bald Eagle* and other vessels were reloaded with goods similar to those they had brought out and returned to New York. Handsome store rooms and offices in buildings recently erected, which had been in great demand and at high prices a year earlier, were vacated by tenants who could no longer pay for them. Failures began to be common and their number gradually increased. Only the strongest had any credit left and they had but little. Real estate values shrank until only revenue producing property could be said to have a value. Nevertheless the outlying districts

continued to be infested with squatters and contests between them and real owners of the property were frequent, sometimes resulting in bloodshed.

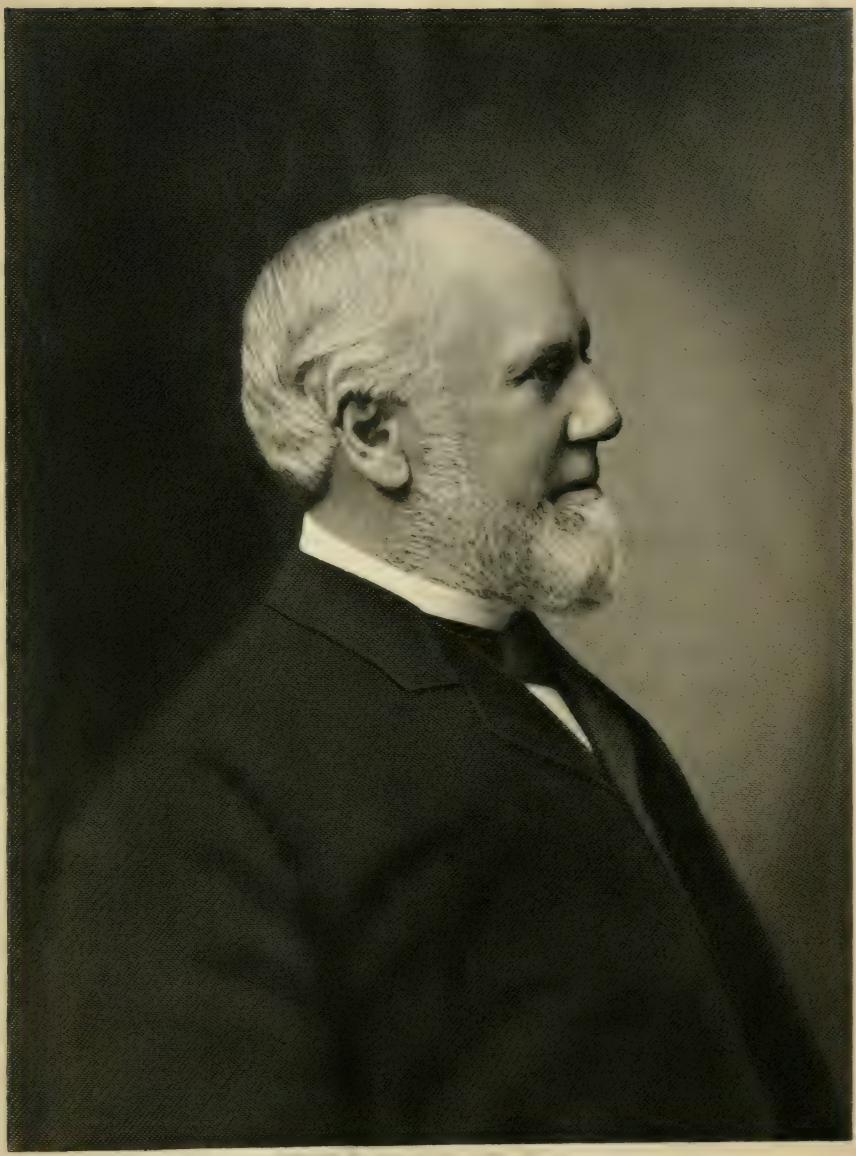
Things grew gradually worse until finally the banks began to fail and a general panic followed. The constitution of the state had forbidden the chartering of corporations for banking purposes, though it permitted associations to be formed under general laws for the deposit of gold dust and silver; consequently the only banks were individual or partnership concerns, some of them branches of eastern houses. In 1855 the most prominent of these banking firms were Page, Bacon, and Company, and Lucas, Turner, and Company, branches of St. Louis banks, Adams and Company, supposed to have some relation with a Boston company or firm of similar name, Palmer, Cook, and Company, Drexel, Sather, and Church, Sanders and Brenham, Corrothers, Anderson, and Company, Wright and Company, and Robinson and Company, the latter doing a savings business.*

On February 17, 1855, the mail steamer brought news that the firm of Page, Bacon, and Company, of St. Louis was in trouble, and almost immediately a run began on the San Francisco house. On the 22d it gave notice that for want of coin its managers had found it necessary to close it down temporarily. It was now apparent that all the other banks would be put to the test, and all prepared for it as they could. Adams and Company, with its large express as well as banking business, with branches in most of the principal towns

*For a more detailed history of early banks and banking in California, see Chapter XIX, Vol. V.

LLOYD TEVIS

Born at Shelbyville, Kentucky, March 20, 1824; came to California, overland, in 1849. Mr. Tevis was a financier of marked ability and was associated with James B. Haggin. He was, for many years, president of Wells Fargo and Company.



Lloyd Tevis



in the interior, did not open on the 23d. Legal proceedings of various kinds were begun, presumably with the object of conserving the resources of the concern for the benefit of its creditors, but in the end they were consumed in costly litigation lasting through several years, and the creditors got nothing. Page, Bacon, and Company made an effort to reopen, but at the end of a little more than a month closed permanently. Some of the other and smaller houses went to the wall, and some of the larger ones were so weakened that they were finally compelled to retire from business.

This panic caused the suspension of one hundred and ninety-seven business houses in the city, with liabilities approximating $8,000,000.

It will be difficult to point to another city in all history whose people were called upon to face such a succession of calamities as those which followed each other so rapidly in the first decade of San Francisco's existence. It is certain that no people could have met them more courageously or more triumphantly. Overrun by lawless brigands in 1849 and without any governmental authority to oppose them, they had suspended their ordinary pursuits for the moment, and driven them into exile. Swept as their city was in 1850-51 by one fire after another until considerable parts of it had been laid in ashes, involving losses of more than $20,000,000 without insurance, they rebuilt it again and again, and each time more substantially than before. Twice again when nearly overrun by the lawless element, they rose equal to the occasion, assumed temporarily the duties which incompetent or corrupt officials failed to perform; and though without the sanction of law, yet with all

its calmness, moderation, and justice, punished the guilty, and purged the Augean haunts of corruption completely. And finally when burdened with a volume of debt greater than a city of twice their number could have safely assumed, even for useful purposes, they were brought face to face with a financial panic that lessened their numbers and reduced the ability to pay of those who survived it; and yet they had no thought of avoiding responsibilities, or lightening their burdens by any other means than honest payment. It is to the everlasting credit of San Francisco and California, that their people, in 1857, when called upon to declare, by their votes, whether they would pay or repudiate debts incurred in their names, decided by overwhelming majorities to refund and pay.

Both city and state suffered a considerable loss of population in 1858, by one of those rushes to newly discovered mines, like that of an earlier time to Gold Lake, Gold Bluff and other places with more or less golden and delusive names. One day in the spring of that year a ship arrived from Puget Sound with copies of the Steilacoom "Herald" containing some accounts brought by returning prospectors of wonderful placers recently discovered on Fraser river in British Columbia. There were many idle men in California at that time, most of whom had not succeeded as they had hoped, in the now rapidly failing placers in California. Some had already turned their attention, or were about to turn it to farming, some were hardly doing more than earning a living at other employments, and some were wholly idle. These greedily bought copies of this paper at one dollar each, and sometimes resold them at an

HAYES VALLEY, SAN FRANCISCO, IN 1862
From a lithograph in Golden Gate Park Museum

The site was the rancho of Colonel Thomas Hayes and was long a recreation park for the people of San Francisco. It is now the site of the Civic Center.





even higher price. In a week or two later issues of the paper, and even proof sheets hastily taken from the type as the ship that brought them was leaving the north, sold for five dollars each. No reported discovery had attracted so much attention since the days of Gold Bluff and soon every steamer going northward and many sailing vessels were carrying prospectors by the hundreds to the new fields. It has been estimated that no less than 23,000, or six per cent of the total population temporarily left California to explore these new fields, which within a few months proved like others to be greenest when far away, and the disappointed gold seekers gradually returned.

The state had also been more or less disturbed by filibustering expeditions fitted out in it for enterprises against Mexico and Central America, and had suffered some loss of population on account of them. These expeditions had various purposes, some of which were not very clearly defined, and in some cases no doubt those who engaged in them did not fully understand them. They engaged attention on both sides of the continent and aroused some anxiety also, for the reason that they were either known or suspected to have some design to extend the slave territory of the United States.

The first of these enterprises was organized in the southern counties of the state by Joseph C. Morehouse, who had been a quartermaster in the Glanton War on the Colorado during the summer and fall of 1850, in which something over seventy-five thousand dollars had been expended without seriously endangering the life or comfort of any Indians. In the following year Morehouse enlisted forty or fifty men for a campaign

in Sonora, in which he intended to join one of the fighting factions and win either glory or money, or possibly both; but the enterprise ended in failure.

Two other expeditions were organized by Frenchmen in San Francisco during 1851-3. They were composed largely of French miners who had not realized their expectations in the mines, were out of employment, and disposed to attribute their want of success to the foreign miners tax, or any other thing than their own faults. The leaders of these enterprises were Count de Pindray and Count Gaston Raoul de Raousset-Boulbon. They persuaded their followers that rich mines might be found in northern Sonora, as well as excellent farming lands, and that they might win the free use, or fee simple title to both, by forming a bulwark for the defenseless Mexicans against the Apaches. Raousset —and possibly Pindray also—really planned to plant a permanent French colony in the border land between Mexico and the United States, that should somehow be helpful to the Emperor Louis Napoleon.

Pindray set off first with one hundred and forty men, going by sea to Guaymas where they were at first received with favor, but soon after the Mexicans became suspicious and Pindray was found dead one morning with a bullet in his head, and his party disbanded.

Raousset was more fortunate for a time. Through the active efforts of the French consul at San Francisco, and the favor of the French minister in Mexico, he was able to make favorable arrangements in advance, with the authorities then in power in Mexico, as well as with Mexican bankers for financial aid; but on arriving

in Sonora with some two hundred and sixty men, he was compelled to do some fighting. He captured Hermosillio, although it was garrisoned by a force vastly superior to his own; but soon after lost, by bad management, all the advantage he had gained, and returned to San Francisco. There his friend the consul urged him to make another effort, and raised for him, or helped him to raise the money he required, with which and a new force of about four hundred men he returned to Sonora. There he encountered a far more stubborn resistance than he had formerly met. His force was dispersed and he himself taken prisoner and shot on August 12, 1854.

While Raousset was employed in organizing his second command, William Walker, an American, was also raising men for a filibustering enterprise. Walker was a native of Tennessee and strongly imbued with southern sentiments. He had been a writer for newspapers in New Orleans before coming to California, and after his arrival in San Francisco in 1850 had for a time written for the "Herald." Later he practised law at Marysville, and was always an ardent advocate of slavery extension. The enterprises of Pindray and Raousset turned his attention to Mexico, and in 1852 he began to dream of planting an American colony in Sonora. In 1853, he too, proposed to defend the northern Mexican settlements against the Apaches, if given a liberal grant of land for his colony; but the Mexican government did not receive his proposal with favor, doubtless suspecting that his pretensions were not genuine.

Walker now abandoned his pretense of wishing to found a colony, and declared his intention to found the republic of Sonora and Lower California. He issued bonds on the faith of his prospects of success, which he managed to sell to admirers in San Francisco, adopted a flag and with forty-six men sailed for Sonora on October 15, 1853. On reaching the Gulf of California three weeks later, the ancient town of La Paz seemed to offer less prospect of resistance than he would be likely to meet at Guaymas, and he accordingly landed, took possession of it, and proclaimed the republic of Lower California, extending the laws of Louisiana over it by a later decree, and so authorizing slavery in it if anybody should care to bring slaves thither. But La Paz was exposed to easy attack from the Mexican coast, and its people becoming restive under their new government, Walker and his army abandoned it, after a sharp skirmish with the natives, and retired up the coast to Todos Santos bay, about sixty miles south of San Diego. There he issued an address to the people of the United States in explanation of his enterprise. Mexico, he said, had paid but little attention to the peninsula, and in order to develop its resources it had been necessary to give it an independent government.

The California newspapers applauded this address, the flag of the new republic was hoisted in San Francisco and recruits to the number of a hundred or more were enlisted and sent to him Being thus reinforced his need for supplies became greater, and he had no means of procuring them except to make levies upon the inhabitants. This brought on a conflict in which several of the invaders were killed.

When news that blood had actually been shed in defense of the new republic reached San Francisco, Walker's enterprise became surprisingly popular. Men hurried from the mines, and so many of the idle and worthless element in the cities crowded to enlist that transportation could not be got for them; and it is quite possible that if Walker and his adherents could have found means to convey all who would now have joined him if they could, to Todos Santos bay, he might have established himself in Sonora, and possibly have succeeded in his grand designs.*

When these new recruits reached him, Walker started for Sonora by way of the Colorado; but for various reasons his soldiers began to desert him. He arrested four of the deserters, publicly shot two of them and flogged the other two, but did not by such means stimulate the loyalty and devotion of those who remained. A bare remnant of his force crossed the Colorado and soon after went to pieces, and his enterprise had to be abandoned.

On his return to San Francisco Walker was prosecuted for violating the neutrality laws but was acquitted, and returned to newspaper work in San Francisco and later in Sacramento, to which he devoted himself for some months until tempted to undertake a new filibustering enterprise in Nicaragua. For this he succeeded in enlisting fifty-six men, with whom he sailed for Central

"Had Walker's party succeeded in reaching Sonora and been able to stand their own for a time, or perhaps signally defeat the Mexicans in a pitched battle, ten thousand of our mixed Californians would have hastened to their triple-striped, two-star standard. * * Other tens of thousands would have flocked into the country; and perforce it would have been thoroughly Americanized." *Annals of San Francisco, p. 479 and 480.*

America early in May, 1855. It is not necessary to follow him through the various changes of fortune which attended him in this undertaking, since it but little concerns the history of California. After his arrival in Nicaragua he was joined by sixty new recruits from California under Parker H. French. Succeeding in several of his early enterprises he became commander in chief of one of the contending factions, and later president of Nicaragua.

News of his advancement and brightening prospects soon reached the eastern and southern states, and as the object of his enterprise was well understood, the advocates of slavery extension bestirred themselves to send him assistance. Public meetings addressed by prominent men were held in New Orleans and other southern cities, to raise money and enlist recruits to be sent him. Tammany hall espoused his cause in New York, and a call for a public meeting, signed by several prominent democratic senators, was posted in all parts of the city, inviting all friends of republicanism, and opponents of British meddling with affairs in Central America, to assist in the great work he was prosecuting. But before the assistance raised by such means reached him, other Central American states had combined with his opponents in Nicaragua and he had been driven from the country.

On reaching the United States Walker immediately raised a new force of one hundred and fifty men, in spite of the opposition offered by federal officials under instructions from Washington, and sailed with them from Mobile for Punta Arenas, where he landed late in November, 1857. There he raised the flag of Nicaragua

and issued orders as commander in chief of its army. He seized a fort on the San Juan, captured several vessels and their cargoes, killed several persons, and made prisoners of others. Commodore Paulding at that time in command of the United States squadron in the Caribbean, on hearing of Walker's renewed activity, sent a force on shore and compelled him to surrender. For this action he had no authority, and when news of it reached the United States, he was severely censured, particularly in the south. Congress called upon the president to explain, and Walker became the hero of the hour. He was arrested for violating the neutrality laws, but upon trial the jury disagreed and he was not further troubled.

In August, 1860, he sailed from New Orleans with a new filibustering force of about two hundred men with which he landed near Truxillo in Honduras, intending to make his way through that country to Nicaragua; but his men lacked the spirit of those he had enlisted in California and soon began to desert him. In his extremity he surrendered to the captain of a British man of war then on that coast, supposing that he would protect him; but in this he was disappointed. He was given up to the military authorities of Honduras, tried by court-martial, and shot September 12, 1860.

Meantime Henry A. Crabb of San Joaquin county, who had been the recognized leader of the whig party in the state senate in 1854, led a party of eighty Californians on a filibustering expedition to Sonora, early in 1857. Near Caborca, a town about half way between Sonoita and Hermosillio, this small force was surprised by a much larger body of Mexicans on

the morning of March 27th, but reached the town where they made a heroic defense for several days. They were finally induced to surrender by promises of considerate treatment, but these were not kept. All were subsequently shot.

The southern counties derived advantage but slowly from the gold mines and the activities which they so generally stimulated. Although a large number of immigrants came to the state by the southern routes, relatively few of them remained in or near the southern towns, or returned to them after trying their fortunes in the mines. Winthrop found San Diego in three parts in 1853—"a desolate harbor with a few sheds and three coal hulks; an old town six miles from the beach; and a new town containing the barracks." The other towns, from San Luis Obispo southward appear not to have shown signs of greater activity. Los Angeles was hardly more than the Spanish pueblo it had been when Pico was governor, though a number of Americans had settled there. Spanish customs and Spanish methods of doing business still prevailed, and would do so for many years. Only on Sundays and holidays would the town awaken from its sleepy restfulness and present a scene of gay activity. Then the señoras and señoritas would come to town in their *carretas*, decked in their brightest colors, escorted by troops of gallants on horseback, and the days would be spent in singing, dancing, feasting, and watching the feats of horsemanship which all young men and some old men delighted to display.



LOS ANGELES IN 1857
From a lithograph in Golden Gate Park Museum.





In the country a change was taking place, though slowly. The large land owners were parting with portions of their holdings to settlers who, here and there in more favored localities, were cultivating the ground more methodically and with better implements than their predecessors had done, though there was but little market for their surplus products. Some of the newcomers were making experiments with vines and fruit trees that would in time develop into a profitable industry; but the realization of their hope was yet afar off. In 1869 there was not above twenty thousand people in Los Angeles city and county, and as late as 1883 the population of the city was only about fourteen thousand; there was not a mail box in it outside the post office, and a free delivery system was not established until later.

During the earlier years—or from 1849 to 1860—there was much complaint in the southern counties, and with reason, about the taxes they were required to pay. Their representatives in the constitutional convention had anticipated that an unjust burden would be laid upon them, and for that reason had favored a territorial rather than a state government, but had yielded to the majority rather than see California divided. They had opposed the section of the constitution in regard to taxation, arguing with much force and clearness that it would oppress land owners, who derived but a moderate revenue from their holdings, while miners, who had no title to the claims from which they were taking fortunes, would pay only a capitation tax if they paid anything. That their fears were not unreal was clearly shown by their

first year's experience. Governor McDougal, in his only message to the legislature, in 1852, pointed out that, as shown by the comptroller's report "the six southern counties, with a population of 6,347 souls * * * had paid $41,705.26 while the twelve mining counties with a population of 119,917 have paid $21,253.66. The latter have a representation in the legislature of forty-four, while the former have but twelve." The amount of capitation tax assessed in the twelve mining counties, he said, was $51,495, of which only $3,580 was paid, while of the $7,205 assessed against the southern counties $3,913.50 was paid. The agricultural counties in all parts of the state, with a population of 79,778 had paid $246,247.71, while the mining counties had paid only $21,253.66 in taxes of all kinds.

The opposition from southern members in congress to the admission of California, with the boundaries agreed upon in convention, and the various proposals made for dividing it, are known. This opposition may have stimulated the efforts of those who hoped for division, though it probably did not. In February and March, 1850, meetings were held at Los Angeles, at which a petition was drawn up and generally signed, asking congress to set off the southern counties of the state and give them a territorial government. The petition was later sent to Santa Barbara and San Luis Obispo, where more signatures were obtained. It set forth in detail the reasons for making this request, but slavery was not mentioned among them; nevertheless the southern senators were able, as the result of it, to urge with some force that a division of the state was demanded by its people.

Efforts to secure a division continued after the state was admitted. Candidates for the legislature in Los Angeles and other southern counties in 1851 were pledged to do their best to secure it, and later, delegates were elected from all the counties as far north as Monterey to a convention at Santa Barbara, to concert measures to bring it about. The convention agreed to resolutions in favor of dissolving a political union "in contradiction to the eternal ordinances of nature, who herself has marked out with an unerring hand the natural bounds between the great gold regions of the northern and internal sections of the state, and the rich agricultural valleys of the south"; but when it came to define the boundaries of these regions, differences of opinion nearly broke up the convention.*

In the legislature of 1852 a resolution providing for the calling of a convention to revise or form a new constitution was proposed but failed of passage, and in 1855 a bill for the same purpose was defeated. The matter reappeared from time to time in the legislature from 1854 to 1857. Meantime it was much discussed in the newspapers in California and occasionally in the east where it was assumed to have some connection with the slavery question, though this was frequently and more or less vigorously denied by all who favored it. In 1857 the legislature passed a bill providing that the people should vote on the question of calling

*No line was fixed, but it was agreed to recommend to the legislature that it should run no farther north than the northwestern boundary of Santa Clara county, nor farther south than the northern line of Monterey county, thence east to the summit of the main Coast range, thence following the range to a due east and west line passing through the northernmost point of Tulare Lake.

a new constitutional convention, but by a close vote it was negatived at the succeeding general election.

In the legislature of 1858 Senator Andrés Pico introduced resolutions requesting that an act be passed setting off all that part of the state lying south of 35°30′ in order that a separate government might be formed for it; but it was not pressed at that session. In the next legislature, however, he presented a similar resolution, and later a bill was introduced and passed directing the governor by proclamation to call upon the voters in San Luis Obispo, Santa Barbara, Los Angeles, San Diego, and San Bernardino counties to vote on the question of separation, and if two-thirds of them or more should favor it, the state should then be divided. While this measure was under consideration another was introduced, probably as a means of delaying or defeating it, authorizing all citizens of the state residing north of the fortieth parallel of north latitude to withdraw and organize a separate government, but nothing came of it. When the vote in the southern counties was taken it showed 2,457 in favor of separation against 828 opposed, or considerably more than the two-thirds required.

In his message to the legislature of 1860 Governor Latham gave notice that he had transmitted the result of the vote taken in the southern counties to the president, at the same time informing him that the movement for a division of the state had grown out of the dissatisfaction of the people of the counties with the expenses of the state government, and the portion of such expenses they were required to pay. There was "no remedy," he thought, save in a separa-

tion from the other portion of the state. In short that the union of southern and northern California is unnatural.

Latham had been elected senator two days before he sent this message to the legislature, and his purpose in sending it appears to have been to secure some declaration that would seem to be a compliance with that section of the federal constitution which provides that "no new state shall be formed within the jurisdiction of another state * * * without the consent of the legislature of the state concerned"—as he was careful to point out that, in his opinion, this section provided for all that remained to be done. Many members of the legislature were of his opinion, while others contended that the electors in a few counties ought not to be allowed to divide the state and set up a new government for them without consulting the larger number who were to remain. The assembly, however, voted by 37 to 26, that the consent of congress was now alone necessary, but in the senate no vote was taken, and the matter so remained.

It has been asserted by several writers that this movement for a division of the state was in the interest of slavery, and was promoted by the pro-slavery party; but that this is not the fact must be clear to anyone who will carefully examine its history in detail.* The people in these southern counties were not in favor of slavery; the great land owners particularly were naturally opposed to it. Nor were they at any stage of the agitation in any degree deluded by pro-slavery

*See a very carefully prepared article, with ample references to the records, by William H. Ellison in the *Southwestern Historical Quarterly* for October, 1813.

politicians. They were careful to deny, when there was occasion, that the pro-slavery party had any part in what they were seeking to do, and in all their speeches, petitions, and memorials, set forth other and ample reasons for their dissatisfaction.

It is no doubt true that in 1858 and 1859 the extreme pro-slavery party looked with favor on what these counties were trying to do, and helped them by its votes. It is possibly true as Hittell assumes,* that Latham aspired to advance the scheme so far as governor, that as senator he might be able to offer the south the means of restoring its lost equilibrium in the senate, by the tender of territory for a new state south of the old line of 36°30′, taken from the state whose admission had destroyed it. The fight for Kansas was not yet over; if the south should win in that fight it must soon lose again by the admission of Nebraska. But by dividing California the equilibrium might be restored with some hope of permanency; for by the compromises of 1850 it had been settled that when new states should be formed in Utah and New Mexico, they might be slave or free according as the people then in them should decide. The plan seemed plausible enough to commend it to a man of Latham's calibre, who was not too well informed—as may be safely assumed—in regard to the status of the slavery agitation at that time; but nothing can well be more certain than that Latham's plans, and those of the people in the six southern counties had little in common.

*Theodore H. Hittell, *History of California, Vol. IV., p. 261-2.*

CHAPTER II.

THE VIGILANCE COMMITTEE OF 1856

THE improved conditions brought about by the non-partisan administration in San Francisco which followed the work of the vigilance committee in 1851, did not last long. Unfortunately non-partisan reform administrations do not propagate their kind. Their work is for the time being only; those who compose, elect, and support them usually scorn and scoff at the means by which alone government of any kind, whether good or bad, may be prolonged, and the reforms they begin, or perhaps complete, are not lasting. At the end of their term, usually, their reforms end, the old corruptionists and ringsters return to power, and the last state of the reformed municipality is worse than its first.

So it was with San Francisco in the early fifties. In the state at large, while vigilantes had been active, they had produced little change except in the way of lessening the number of criminals; indeed they had attempted little else. Crime was still rampant everywhere; murders for the purpose of robbery were so frequent that it is almost surprising that honest people kept up heart to carry on the business of their lives. Helper, in his Land of Gold, estimates that no less than four thousand two hundred persons were murdered in California in the years 1849 to 1854 inclusive; and while this estimate was made by one who could have had no better basis for it, or a large part of it, than reports hastily gathered here and there as occasion offered, yet his statement must be taken as one of numerous other evidences that the number was very large.* Bancroft says that the

*Hinton R. Helper did not stay long in California, but returned east to write another book called *The Impending Crisis of the South; How to Meet It*, for endorsing which John Sherman was defeated as a candidate for speaker of the house of representatives after a prolonged contest in 1859.

criminal records of 1855 show that five hundred and thirty-eight persons met their death by violence in that year. Of these three hundred and seventy were whites, one hundred and thirty-three Chinese, and three negroes. During the same year forty-seven persons were reported to have been executed by mobs, nine were killed by Indians, ten by sheriffs or police officers, six by collectors of the foreign miners tax and twelve in brawls. Hittell says that during eleven months of that year the number of homicides was five hundred and thirty-five. Forty-nine criminals were hanged by mobs, while there were only seven legal executions.

Single individuals, or small parties of miners were not only waylaid and murdered while on their way from the mines to the cities, but prosperous farmers and their families were slaughtered in their beds and their bodies burned in their homes. Stages were stopped in lonely places and their passengers and treasure chests despoiled. Stores and banks were plundered, and sometimes ships lying in the rivers were captured and robbed if known or supposed to have gold dust on board. Organized bands of thieves stole horses and cattle, passed them along from one party to another until they were finally sold at places so remote that there was little danger they would be reclaimed. Finally other bands of bandits roamed far and wide through the great interior valleys, or the counties south of the Tehachipi, robbing indiscriminately and murdering all who resisted.

Most noted among these bandits was Joaquin Murietta, whose party is supposed to have murdered a hundred men, and between 1850 and 1853 ranged

through the whole interior country from Los Angeles to Mount Shasta. A few years later Juan Flores captained an equally large and equally murderous gang that for a time terrorized the southern counties. Both were Mexicans as were most of their associates, although some of them were natives of other countries. Some sympathetic historians would have us believe that they were driven to desperation by the foreign miners tax; some tell us that Murietta was flogged for an offense of which he was not guilty, and that his crimes were aimed principally at those responsible for his flogging, while another and more romantic apology for his mad career finds expression in a story that he turned cutthroat to avenge some indignity offered to his pretty wife or mistress. He is reputed also to have been something of a Robin Hood in the boldness with which he visited towns where vigilantes were eagerly watching opportunity to hang him, and talked with sheriffs whose pockets were filled with warrants commanding his arrest—but always escaping and eluding pursuit. One of his principal lieutenants was that Three Fingered Jack who had boasted of murdering Cowie and Fowler at the time of the Bear flag episode, and whose chief delight was to cut the throats of Chinamen.

In 1853 the legislature authorized Captain Harry S. Love, deputy sheriff of Los Angeles county, who had shown much boldness and skill in pursuing outlaws, and who had already captured or killed several of them, to enlist a company of twenty men to capture or exterminate Murietta's band. This he did, choosing among others Walter H. Harvey who had shot James D. Savage, discoverer of the Yosemite Valley, and Philip

T. Herbert who later, while a member of congress killed a waiter in Willards Hotel at Washington, as his lieutenants. Love came upon Murietta and some of his followers while in camp in the plain west of Tulare Lake on July 25, 1853. Murietta sprang upon an unsaddled horse and attempted to escape but was shot; some of his companions were killed or captured after a hot chase and some fighting. Among the killed was Garcia, or Three Fingered Jack.* The gang was subsequently broken up, though not many of them were killed or taken. Most of them are supposed to have left the country.

After committing many murders and killing Sheriff J. R. Barton of Los Angeles county, the bravest and most vigilant of his pursuers, Flores—who was only twenty-two years old—and three of his followers were captured in the San Joaquin Rancho mountains, by a posse of about a hundred men under Andrés Pico on Sunday, February, 1, 1857. They managed to escape but were retaken three days later and two of them were immediately hanged. Flores was taken to Los Angeles where he remained in jail for a week, at the end of which time a demand was made for him by a party of citizens, and he was taken out and hanged. Fifty-two members of his gang were captured, but as no specific charge could be proven against any one of them, they were liberated. Thenceforth their depredations ceased.

In most parts of the state in 1856 the laws were no better executed than they had been in 1851. Judges were negligent, prosecutors incompetent, and juries

*Murietta's head and Jack's mutilated hand were cut off and carried to Sacramento, as proof that the noted desperados were dead. They were for a time preserved in alcohol and exhibited in a saloon in San Francisco.

corrupt; while sheriffs, if sometimes energetic and courageous in making arrests, were often disheartened by finding those whom they had tracked out and captured at great personal risk, set at liberty for very trifling reasons. In civil proceedings things were quite as negligently managed. The depressed conditions preceding and following the bank failures of 1855, had made debtors numerous, and more consideration was shown them than their honest creditors. It was because of such conditions that vigilance committees long kept up their organizations in the interior counties, or revived them upon occasion after they had disbanded.

In San Francisco things were in even worse condition than elsewhere. The political methods which Broderick had introduced from New York had placed the management of its affairs in the control of men who were not only extravagant and corrupt, but daily growing more defiant. Notorious criminals made their homes in the city, were conspicuous on election days, bullied honest voters, stuffed ballot boxes, and even found places in the public employ. James P. Casey who had once served a term in Sing Sing, was supervisor, "Billy" Mulligan, a notorious New York ruffian, was keeper of the jail; "Yankee" Sullivan, prize fighter, Charles Duane, who had shot a man but escaped punishment because the witnesses of the shooting could not be conveniently found on the day of trial, and many others like them were always conspicuous at elections, and known or believed to be in the pay of prominent politicians.

The courts had few claims upon the respect of honest citizens, though some of the judges were both competent

and honest. The police courts were particularly in disrepute; they were in fact bulwarks of defense for the scoundrels who ran the elections and the thieves, murderers, and other disreputables who voted under their direction. The notorious "Ned" McGowan had once presided in one of them, though he had later been promoted to be one of the three judges of the court of sessions, to which appeals were taken by those whose crimes were so black that the justices could not, without too open defiance of decency, set them at liberty. McGowan had been a Philadelphia policeman in earlier days, but had fled that city when charged with being accessory to the robbery of a bank. As judge in the upper court he found ways—by continuing cases until witnesses could be got rid of, or by accepting as jurymen those who were no better than the culprits whose crimes they were to pass upon—to be as useful to the criminal classes as he had been as a police judge; while others little better than himself replaced him on the lower bench. It was in such courts that the criminals in the early days in San Francisco were arraigned, and some of the most famous criminal lawyers in California practised.

In a city so governed it is hardly surprising that the prosecuting attorney could say, as he is reported to have said in the closing argument in a murder trial late in 1855, that twelve hundred murders had been committed in it within the preceding four years and only one murderer had been convicted.* That was an average of five murders every six days in a city of approximately 45,000 people. Robberies, burglaries,

**The Land of Gold, p. 298.*

and other crimes were correspondingly frequent. Things had not been worse when the vigilantes asserted themselves and brought order out of the criminal revels of 1851.

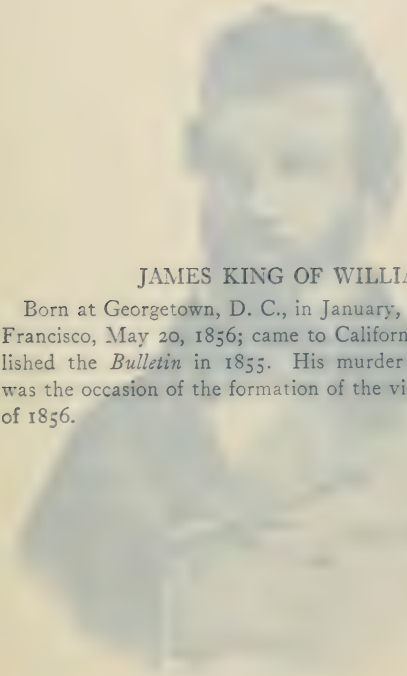
The old spirit of orderly revolt was not wanting; it was only waiting to be aroused. A call to action was alone needed and the call came.

On the afternoon of October 8, 1855, from a little office in Merchant street just east of Montgomery, James King of William published the first number of the "Evening Bulletin." The size, appearance, and contents of the new publication indicated clearly that it was an experiment in journalism, nevertheless one that was likely to command attention. Its editor had no experience in newspaper making. He had no purpose to make a newspaper of the kind with which the reading public is now familiar. To lay before his readers a more or less complete record of the day's happenings, with pointed comments on such of them as were or seemed to be most deserving of attention, was but a small part, if indeed it was any part of his plan. He had another purpose in view and it was an earnest one. It was to awaken honest people in San Francisco to the dangers of their situation and rouse them to action. He did not expect to do this by mere scolding. He would expose evils of every sort, confront wrong doers with the evidence of their vices and then denounce them unsparingly.

This editor had been born in Georgetown, D. C., in January, 1822, and was therefore not yet thirty-four years old. He had been a clerk in a bank and had worked in the departments in Washington. The "of

William"—i. e. of the family of William—he had added to his name to distinguish him from other James Kings. He had started for Oregon by sea in 1848, but learning at some port in South America of the gold discovery, had decided to stop in California. Like most others he tried his fortunes in the mines for a time, but later kept books for a mercantile house in Sacramento. Late in 1849 he started a bank in San Francisco, as James King of William & Company, which did a fairly satisfactory business until 1854, when because of some bad investments and the depressed conditions then prevailing, he paid off some of his depositors and arranged to pay the others through Adams & Company, turning over all his property for that purpose. As a part of this arrangement he became cashier of Adams & Company with a salary of $1,000 per month, but disagreeing with some of its members as to their methods of doing business, he soon after resigned and borrowing $500 from some of his friends started the "Bulletin."

He was a man of convictions, and what he believed he had no hesitation in declaring most openly. This characteristic had been a hindrance in his business as a banker, but would be strikingly helpful as a publisher. He had learned much as a banker about the methods of some of his competitors, particularly of Palmer, Cook, & Company, and he early began to tell the public what he knew. He had hardly more to say about the firm and its methods than about the members of it, whom he addressed by name and denounced them as political schemers rather than bankers. They were on the bonds of public officials for more than $2,000,000, and he charged that they not only became sureties



JAMES KING OF WILLIAM

Born at Georgetown, D. C., in January, 1822; died at San Francisco, May 20, 1856; came to California in 1849; established the *Bulletin* in 1855. His murder by James Casey was the occasion of the formation of the vigilance committee of 1856.





when asked, but actually solicited opportunity to sign bonds in order that they might by that means secure deposits of public funds. He held them to be chiefly to blame for all that honest men had to complain of in city and state government, since it was to their interest to have only such men in office as they could control, and to secure the election of such men they bribed and corrupted all who came under their influence. Day after day he charged them with specific offenses which they could not or did not disprove, and when a few months later they made default in the payment of the interest due in New York on state and city securities, the money for which had been entrusted to them in ample time, it was apparent that his castigation of them was not undeserved.

Meantime he did not neglect public officials who were remiss in their duties, or political managers who had contributed to their election. He early assailed Broderick whom he accused of maintaining a corps of hired bullies to dominate elections. Lawyers who procured the enlargement of notorious criminals by suborning witnesses, or by pleading trivial technicalities, and the judges who permitted them to do so were also objects of his attacks, not made generally upon a class but particularly, charging home to each some specific offense and presenting evidence to sustain it. Officers who were responsible for the peace and good order of the city he called upon by name to do their duty, pointing out from day to day certain notorious ruffians or well known criminals who were permitted to jostle honest men and women in the streets, and ply their criminal vocations without

restraint, insisting that they could not do such things unless protected by those who ought to be their enemies. So persistently, insistently, and pointedly did he pursue these attacks, that the city council was at last obliged to recognize them, and a report made by a committee in November admits that the evils complained of were only too open and notorious. There was no sort of privacy about them. The best families in the city were daily and unavoidably insulted by the immediate neighborhood of impudent evil in its most glaring form, all good women and all children being subjected alike to the disgrace.

If King was a bold and vigorous fighter, he was at the same time an honest one. He did not attack for the sake of attacking, or fight for the love of fighting. If in the general onslaught he occasionally assailed one who was less guilty than he believed, and had a defense to make, he gave him opportunity to make it; if convinced that he had been in the wrong he made ungrudging apology. If at the same time some one had a new accusation to make, and could support it with evidence, or show seeming cause to make it, he courted his assistance. His paper soon came to be a popular forum in which all sorts of public questions were discussed by any who cared to write, and the letters addressed to the editor largely took the place of what is called news in other papers. The number of its readers increased surprisingly. In the course of two or three months it was more generally read than any other paper in San Francisco, and daily printed a statement of the number of copies printed at the top of its editorial page.

Some of the letters received assailed the editor as bitterly as he attacked the writers or their clients. Some were threatening, but these he treated nonchalently and sometimes even humorously. Duelling was common in those days, particularly in California, and had King been willing to accept a challenge he would have been frequently called out. But he had early announced that he did not believe in duels and would accept no challenges, though nobody doubted his courage. It was generally known that he carried a pistol and that he practised shooting with it, but he carried it only for defense. He even said so in his paper, and wrote cheerfully of the prospect of being attacked. "Bets are now offered, we have been told, that the editor of the 'Bulletin' will not be in existence twenty days longer," he wrote on November 22d, the gamblers whom he had been continually denouncing, being at the time in a most hostile humor. Two weeks later he wrote: "Mr. Selover, it is said carries a knife. We carry a pistol. We hope neither will be required, but if this recontre cannot be avoided, why will Mr. Selover insist on periling the lives of others? We pass every afternoon, about half past 4 to 5 o'clock, along Market street from Fourth to Fifth street. The road is wide and not so much frequented as those streets farther in town. If we are to be shot or cut to pieces, for heaven's sake let it be done there. Others will not be injured, and in case we fall our house is but a few hundred yards beyond, and the cemetery not much farther."

When these lines were written, and others even more defiant, the city was unusually excited. A murder,

without provocation so far as the public knew, and the victim of which was a well known public official, had been committed only a few days before. William H. Richardson, United States marshal, had been shot in the street by a gambler named Charles Cora. They had quarrelled the day before in a saloon, so the public learned later, and about half past six o'clock met again in a saloon on Montgomery near Clay street. They left the place together a few minutes afterward without attracting particular attention, and near the corner of Clay and Leidesdorff streets, the gambler was seen to seize the officer by the collar, draw a pistol and shoot him. Some of the few people on the street at the time heard Richardson say as the pistol was presented: "You would not shoot me, would you? I am unarmed." Then a shot rang out and he was dead.

Cora was immediately arrested and hurried to jail. Later in the evening the signal that had summoned the vigilance committee in 1851 was struck on the bell of the California engine company, and a few of the members of that once active body assembled at the Oriental hotel. Sam Brannan was there among others and made a fiery speech, but otherwise there was no excitement and nothing was done or agreed upon.

A coroner's jury found that Richardson had been murdered without a mitigating circumstance. The public accepted the verdict as quite in accordance with the facts so far as known, and began to speculate about the probability of justice being done. Cora, although worthless himself, was known to be the paramour of one of the wealthiest and most notorious women in town, and it was suspected that she would use her

money lavishly, as she afterwards did, to secure his acquittal. The "Bulletin" warned the public that this would be done; that the ablest lawyers would be employed to conduct his defense; that jurors would probably be bribed, and the sheriff or his deputies might be prevailed upon to let him escape. Forty thousand dollars had been subscribed, it said, to secure his freedom. It did not advise resort to any unusual means to prevent this, hoped in fact that there would be no occasion to do so, but it urged that a close watch be kept upon all officials whose records did not place them above suspicion. It was a mortification to every lover of decency and order in and out of San Francisco it said, that the sheriff was an ex-keeper of a gambling hell, one of his deputies a capper at a string game table, while his jail keeper was a notorious New York rough. "If," it said, "the jury which tries Cora is packed, either hang the sheriff, drive him out of town or make him resign; if Billy Mulligan [the jailer] lets his friend Cora escape, hang Billy Mulligan or drive him into banishment."

Cora was indicted and brought to trial with reasonable promptness. As was expected his mistress retained the best known lawyers to defend him. These were Colonel E. D. Baker, James A. McDougall, George F. James, and Frank Tilford; Henry M. Byrne, prosecutor for the county, Samuel W. Inge United States district attorney, Charles H. S. Williams, and Alexander Campbell were for the prosecution. The case was ably tried on both sides, the arguments for the defense being

made by Baker and McDougall, and for the prosecution by Byrne and Inge. The result was a disagreement of the jury.

So deep and so general was the public conviction of the prisoner's guilt, that no explanation of this mistrial seemed to be thought of save one. It had been noticed that the prisoner appeared at the trial dressed as for some public fete of which he was to be the central and most popular figure, and that at no time had he shown the least anxiety as to the result. Most people argued that he had known from the first what the result would be, and therefore had no reason to fear.

The "Bulletin" announced the mistrial in a more than usually vigorous article. "Hung be the heavens with black," it began. "The money of the gambler and the prostitute has succeeded, and Cora has another respite. The jury cannot agree and are discharged. Will Cora be hung by the officers of the law? No. Even on this trial one of the principal witnesses aginst him was away, having sold out his establishment at twenty-four hundred dollars and left the state. It is said that another trial cannot be had this term, and by that time where will the other witnesses be? * * * Talk of safety in the law! It is a humbug. The veriest humbug in existence is the present system of jury trials" —and much more to the same effect.

Not in one issue only but in many did King make and continue to make these assertions that the law, as then administered by the courts in San Francisco, would not protect the innocent by punishing the guilty. Meantime he did not neglect to seek out new offenses to expose and new offenders to denounce. A man named

McDuffie* had been appointed United States marshal in place of Richardson. King criticised the appointment by McDuffie of one Bagley as one of his deputies, because Bagley had been indicted for an assault on James P. Casey at a recent election. His attention had been called to Bagley by a communication printed in the "Bulletin" on May 9, 1856. Casey had been captain of one of the San Francisco fire companies, but had graduated from that position and was at the time a member of the board of supervisors. He also owned a small Sunday paper which was published from an office in the building owned or controlled by the banking house of Lucas, Turner, & Company, of which General Sherman was at the time manager. The paper had little claim on anybody's respect. Sherman had told its owner that he would not permit him to print and circulate slanders from the building, and that if another article such as the one he was criticising was published, he "would cause him and his press to be thrown out of the window."† Casey or some correspondent of his paper had taken note of the criticism of McDuffie, and in the issue for May 11th had charged that the reason for it was that King's brother had been an applicant for the appointment as marshal and had been defeated. On May 14th the "Bulletin" again discussed Bagley's case, and referring to the fight with

*Bancroft says that McDuffie had accumulated a fortune by conducting a gambling house at Marysville, in company with a partner named Van Read; that Cora had been employed by them, and that Van Read became active in Cora's behalf, so giving some ground for the suspicion "that one gambler had murdered the marshall to enable another gambler to secure his place." *Popular Tribunals, Vol. II, p. 33.*

†*Memoirs of General Sherman, Vol. I, p. 119.*

Casey on election day said: "It does not matter how bad a man Casey has been, nor how much benefit it might be to the public to have him out of the way, we cannot accord to any one citizen the right to kill him, or even beat him without justifiable personal provocation. The fact that Casey has been an inmate of Sing Sing prison in New York is no offense against the laws of this state; nor is the fact of his having stuffed himself through the ballot box as elected to the board of supervisors from a district where it is said he was not even a candidate, any justification why Mr. Bagley should shoot Casey, however richly the latter may deserve having his neck stretched for such a fraud on the people."

The paper containing this article had been off the press but a short time before Casey himself visited the "Bulletin" office to protest against the attack. King is said to have asked him if it was not true that he had been in the penitentiary, and Casey replied that he did not want his past raked up. King then ordered him out of his office, telling him never to return.

The "Bulletin" had not "raked up" Casey's past record. It had only republished a fact that had been brought to notice in a court trial some months before, when Casey himself had admitted it on the witness stand, and it had been published generally in the San Francisco papers. The republication in one paper can hardly be supposed to be the sole cause of Casey's anger, since he had shown no special indignation on a former occasion when it had been published in several papers; and there was therefore ground for the belief, quite generally held at the time, that he was urged on

to do what he did by others who had quite as much reason to be aggrieved as himself at the "Bulletin" attacks.

Hardly more than an hour after Casey had visited the "Bulletin" office, King left it for the day. He had over his shoulders a cape-like wrap, such as was worn at the time, which covered his arms and which he appears to have been holding together at the throat with one hand. He walked north along Montgomery street to Washington, and as he was crossing diagonally to the northwest corner, Casey suddenly confronted him, thrust a heavy revolver at his breast, and saying something which nobody appears to have distinctly heard, but which was probably a warning to defend himself, or a notice that he was going to shoot, fired. Though armed King had no opportunity to make defense. Both his arms were covered, and he was hardly given time to recognize his assailant, much less to draw a weapon before he had received a mortal wound. He staggered forward, reached the sidewalk and was led into the Pacific Express office where he sank into a chair. Doctors were hurriedly summoned, and his wound examined. It was found that the ball, fired at close range, had entered the left breast near the nipple and passed out under the shoulder blade. Death seemed to be imminent, but under the influence of such restoratives as could be given he gradually recovered from the first shock of the wound. He was placed on a couch and removed to a room in a neighboring building, which he was never to leave alive.

Without waiting to learn the effect of his shot—of which indeed there could be little doubt, as it was fired

at close range—Casey turned up Washington street and was almost immediately joined by Lafayette M. Byrne a deputy sheriff. "Ned" McGowan ex-judge of the police court, and Peter Wightman a butcher, were waiting near by, and the three hurried with him to the city jail less than a block distant. So promptly had the three appeared after the shooting that it was long after believed that they were aware of what was to be done, and had approved if not encouraged it. It was well for Casey that they were near, for a crowd soon filled the street, and many voices were heard demanding that he should be immediately hanged. His friendly captors, however, succeeded in hurrying him into the jail, but did not long dare to keep him there. The crowd about it increased rapidly and grew more angry. Messengers were sent to fetch a carriage to the rear of the building, but when the prisoner was led out to it he was immediately recognized. A cry went up that the murderer was escaping, and there were more demands that he be seized and hanged. The officers succeeded in getting him into the carriage and as quickly as possible he was driven to the county jail, the crowd following and threatening at every step to stop the carriage, and drag the prisoner out of it.

The county jail was then on the north side of Broadway between Kearny and Dupont streets. It was a two story structure of stone and brick seven or eight feet above the street and set in a niche scooped out of Telegraph hill. It could easily be defended against a mob. Its most vulnerable side was that toward the hill which nearly touched it at the roof level,

and thence sloped upwards. But even on this side it was defended for the time being by Casey's friends, and once inside it he was safe.

The crowd, however, did not abandon its demands for his immediate execution. It filled the streets for several squares, and excited speakers endeavored to rouse it to action. Among these was Thomas King, a brother of the wounded man, who from a balcony opposite the jail declared excitedly that the shooting had been done at the instigation of gamblers who would now pour out their money in his defense as they had poured it out for Cora. He had been told by "old Natchez" a dealer in fire arms on Clay street that very day, that his brother was to be shot. If "Natchez" knew it, others knew it, and that was evidence as he thought, that conspirators had planned the attack though only one man had made it.

Mayor Van Ness also asked to be heard. He hoped nothing would be done rashly, and advised all present to go quietly to their homes. "I assure you that the prisoner is safe," he said. "Let the law take its course and justice will be done." But the crowd was in no mood to listen to such assurances. "How about Richardson?" "Where is Cora?" "Has justice been done in his case?" and other similar cries greeted this appeal, and he did not attempt to speak further.

While the crowd was listening to these and other speeches a company of armed citizens appeared and gradually forced its way toward the jail. It was cheered at first, but when it was seen that it came to defend and not attack, the cheers were turned to hisses. Later

another company appeared and still later some of the militia organizations marched up. It was midnight before the excitement abated and the crowd dispersed. Many of its members passed down Montgomery street to inquire as to the condition of the wounded man, and learned with much satisfaction that he was still alive. They also heard with equal satisfaction a rumor that a committee of vigilance was organizing.

A crowd had filled the streets near the Montgomery block, to a room in which King had been removed, during the whole evening. About nine o'clock many members of it had gone to the plaza where some speeches were made, but nothing had been done because there was no one to lead. The leaders, or some of them at least, were conferring together elsewhere.

A few members of the old committee of 1851, and some others, had met in the office of G. B. Post & Company's warehouse at North Point. They had done nothing but decide to issue, in the name of the old committee, a call for a more general meeting to be held next morning in a vacant store on Sacramento street near Montgomery. At the appointed time the street in front of the place designated was found to be blocked with people, and their numbers were rapidly increasing. It was evident that San Francisco was thoroughly aroused.

No arrangements had been made for the use of the building at which the meeting had been called, but some of the earliest comers procured the key and as many as could do so went inside. A wonderful unanimity of purpose soon displayed itself, both among those inside and outside. All favored immediate and

vigorous action, and each was willing to do what he could do best to secure it. Naturally those who had been most prominent in the former committee were looked to to take the lead, and as they appeared and were recognized room was made for them so that they might get together for conference. Among the earliest recognized were James D. Farwell, William T. Coleman, Isaac Bluxome, Jr., Thomas J. L. Smiley, Arthur Ebbetts, George Ward, Jerome Rice, Wm. Arrington, J. M. Taylor, J. Dows, C. V. Gillespie, J. P. Manrow, A. M. Burns, Wm. B. Watkins, and G. W. Frink. These and others, some of whom had been members of the earlier committee and some had not, seem naturally to have looked to Mr. Coleman to take the lead. He had been less vehement than many others in times of excitement. He was less radical than Brannan, not so aggressively assertive as Ryckman, made no pretense of superiority in anything, but was no whit behind any in courage or willingness to sacrifice himself when there was need. His selection as leader was less the result of formal action, than of universal demand.

It was not necessary to discuss what was to be done at the outset. Everybody knew what was to be done ultimately and was willing to help do it. It was plain that they would be able to do it; a plan of procedure was first needed, and the preparation of it was at once begun.

All the members of the old committee realized that some changes in its constitution and regulations would be desirable. Everything about it should be more secret; more care should be taken to admit none who were not to be trusted, and all should be pledged at

the outset to stand to and abide by the decisions of the governing body. A form of oath was accordingly drawn up which each subscribed. Then a membership roll was prepared and committees appointed to examine applicants for membership, administer the oath, and receive their signatures. The names on this roll were to be numbered in order and each member was thereafter to be known and addressed by his number rather than his name. Mr. Coleman signed first and was number 1, A. M. Burns number 7, James D. Farwell number 17, Thomas J. L. Smiley number 20, G. W. Frink number 26, and Isaac Bluxome, Jr., number 33. Bluxome was made secretary and afterwards signed all official papers and communications with his number.

The examining committees worked assiduously. Nearly fifteen hundred members were enrolled on the first day. Among those first to apply were many who had been members of the old committee, though those who had not arrived in the city until after 1851 were equally in earnest. They waited in long lines outside the building during the whole day and far into the night to reach the enrolling desks, and for two or three succeeding days and nights their numbers scarcely seemed to diminish. From hundreds the names enrolled soon numbered thousands.

During the first few hours some ten or twelve members who had been first to sign the roll acted with Coleman and Bluxome as the executive committee without having been formally chosen. They were in fact a provisional committee only, and for the most part devoted themselves wholly to the preliminary work of organization.

One matter outside this routine was, however, so much in everybody's mind that action on it could not be restrained. The "Herald," perhaps the most influential newspaper in San Francisco, after the "Bulletin," had that morning contained a short editorial on the shooting of King, that most people had read with indignation. It referred to it as an "affray" and earnestly condemned the exhibition of "mob spirit," that had followed it. The editor had "sustained the vigilance committee in times past to the peril of his life and fortune," but there was now no necessity for such an organization and "he could not help condemning any organized infraction of law." Some highly respectable merchants had joined in a call for a meeting of the old committee and he "wished to be understood as unqualifiedly condemning the movement." If Casey was guilty he ought to be punished, though not until after he had had a fair trial.

Outside the committee business men were resenting this comment on their action of the night before and the cause of it, in a very emphatic way. In the busiest part of the city all the copies of the "Herald" that could found were gathered up and burned in the streets. A letter requesting the auctioneers to withdraw their advertising from the "Herald" to which it had hitherto been given exclusively, was generally signed, and the advertising was withdrawn. The merchants generally withdrew both their advertising and their subscriptions. Next morning the paper appeared greatly reduced in size, and its editor although defiant admitted a loss of two hundred and twelve subscribers; its loss of advertising was only too apparent. It had received a blow

from which it would never recover. From being the largest, and at one time the most influential and one of the most widely read papers in the city, it thereafter gradually declined until it ceased to exist.

Inside the committee the feeling was as strong as outside. A member early in the day moved that all withdraw their patronage, both as advertisers and subscribers, and although Coleman and one other member opposed, it was carried. So far as known this was the only action taken about which there was serious division of opinion.

It had early been apparent that the single store room on Sacramento street would not serve the uses of the committee, and messengers had been sent to seek for larger quarters. These were found at Turn-Verein hall on Bush street near Stockton, and the committee removed to them at the end of its first day's work. By Saturday, the third day, it was necessary to move again this time to a building on the south side of Sacramento street between Front and Davis. This was a two story structure of stone and brick, both floors of which were secured and later occupied, the lower as an armory and drill room, and the upper for various offices and committee rooms, together with eight cells for prisoners.

By this time more than five thousand members had been enrolled, and the examining and enrolling committees were still busy. No popular uprising had ever been more general. Not only did the people of San Francisco approve what all knew was to be done, and the means to be used to do it, but cities and towns in the interior were quite as keenly interested. From Sacramento, Marysville, Stockton, and many smaller

towns and mining camps came assurances of approval with offers of support if there should be need for it. San José offered a thousand men if they should be required, and Sacramento made a similar tender. In many towns people assembled as if moved by a common impulse to express the hope that what was to be done might be done thoroughly.

While the committee and people were thus organizing, the sheriff, the city and county officials, and their supporters, were not idle. The crowds thronging the doors of the committee rooms waiting to be enrolled, or that waited hour after hour in the street near Montgomery block for news of King's condition, gave no surer evidence than did the temper of those who were going on with the ordinary business of their lives, that trouble was preparing, and that if Casey was ever to have his day in court it would be necessary to keep the jail under stronger guard than could be instantly commanded in case of attack. Officers and members of the militia companies were resigning and joining the throngs waiting in the streets to sign the rolls of the vigilantes. Even the police were showing signs of disaffection. On Friday the second day after the shooting, the sheriff sent out a general summons for a *posse comitatus*, but of the hundreds to whom it was sent only a few responded, most of whom were lawyers and politicians or office holders. During the day a meeting of these few was held. It adopted a resolution expressing "regret of the injury inflicted on Mr. King by one Casey"; deprecated the excitement that had followed; declared that in the event of the death of Mr. King, it favored "the immediate present-

ment of Casey by the grand jury, his immediate trial by a court of competent jurisdiction, and if convicted, his immediate sentence and prompt execution." This would have been well, and would no doubt have produced a good effect could people have felt a confidence in their courts. But there was no such confidence. The protest that was preparing was not alone against the killing of King; it was to be even more vigorous against the methods of the courts in dealing with criminals.

While the sheriff and his sympathizers were thus employed, the vigilantes were organizing all their enrolled members into companies and regiments. It had required only a suggestion to set this work in motion. Each hundred in the order of enrollment were to form a company and elect their own officers; ten companies would form a regiment. A large number of French citizens, some of whom did not speak or readily understand English, were excepted from this arrangement and formed companies of their own. The officers of the militia companies, and some old soldiers from the Stevenson and other regiments, took an active interest in forming and perfecting the organization, and were later chosen as company and regimental officers. Under their direction drilling was begun and kept up every day, and sometimes far into the night, in the armory rooms and in the streets near the new headquarters. An artillery company commanded by Colonel Johns, an experienced artillerist, and one or two troops of cavalry were also organized. Later when regiments were formed Charles Doane, a civilian but

a man of ability, was chosen marshal and commander in chief, while Captains Lippitt, Pinto, Ellis, and Olney were made colonels.

The sheriff had seized the arms of the militia companies soon after these military preparations were begun, but this did not hinder the organizations from getting arms. A number of merchants kept firearms for sale, and one had only a short time before received a large consignment of flint lock muskets which had probably seen service in the Mexican war. Enough of these were arranged for to arm all the companies then formed, and all that were likely to be formed. Several ships lying in the harbor contributed a cannon each for the artillery. These were mounted on the fore wheels of wagons. By the time enrollment ceased the total armed force at the service of the committee consisted of four regiments and several independent companies of infantry, four companies of artillery and two of cavalry —about six thousand men in all. A police force had also been formed whose members, together with details from the military companies, patrolled the city night and day.

Everything was directed by an executive committee of which some thirty-seven citizens were members at one time or another,* though usually not more than ten or twelve were on duty at any one time, except when some matter of the utmost importance was under con-

*These were: William T. Coleman, Thomas J. L. Smiley, James Dows, J. P. Manrow, S. T. Thompson, W. T. Thompson, R. Beverly Cole, J. S. Emery, N. O. Arrington, L. Bossange, Charles Doane, J. K. Osgood, R. M. Jessup, J. H. Fish, M. J. Burke, C. L. Case, F. W. Page, Emile Grisar, Clancey J. Dempster, J. D. Farwell, O. B. Crary, William H. Tillinghast, William Arrington, E. O. Flint, W. T. Reynolds, Eugene Delessert, N. P. Hutchings, J. W. Brittain, William H. Rogers, Miers F. Truett, C. V. Gillespie, Isaac Calvin Nutting, James Ludlow, Jules David, A. L. Tubbs, H. M. Hale, and A. M. Burns.

sideration. Their decisions, or those of a majority, were final in all matters except when persons were sentenced to death or banishment; these were subject to review by a board of delegates, composed of three members of each military company, and if not approved were not executed. It does not appear that this board ever failed to approve in any case, so carefully and in such good order was everything done.

On Sunday, the fourth day after King was shot, he was still alive, but it had been impossible to move him from the room in Montgomery block to which he had been taken soon after the shooting. He was attended by his wife and by half a dozen doctors. There was no hope for his recovery, though none could tell how long he might live. His strong frame and splendid courage had enabled him to withstand a shock that would have killed one physically less strong or of less heroic nature. Small knots of anxious watchers still waited about the building for the bulletins issued from time to time by the doctors. All felt that the sufferer's life was trembling in the balance, and that his death would certainly be followed by the swift punishment of his murderer.

The jail had also been the center of a watchful interest. The sheriff had early been notified by the vigilantes that he would be held to a strict account if Casey escaped. It was not forgotten that Billy Mulligan was in charge there. The oft repeated advice of the "Bulletin" that if Cora was allowed to go free then "hang Billy Mulligan," was in everybody's mind; and now if Casey should be found missing the demand for Mulligan's execution would be universal. The sheriff was properly alert. Finding that there were

few on whom he could rely in case of need, except his own deputies, he had early called upon Governor Johnson for assistance.

The governor came down from Sacramento on Friday evening, at the invitation of the mayor, and went direct from the boat to the International hotel where Coleman met him shortly after his arrival.* He knew Coleman well, and apparently wished to confer with him before meeting the sheriff and others. At his request Coleman gave him a brief statement of the condition of affairs, told him what the committee hoped to accomplish, though probably without going into details as to the things to be done. They hoped to do all in a peaceable way, but if there must be war, they would be ready for it. The ablest and best men in the city were actively directing all that was done; they were supported by nearly the whole mass of citizens and it would be useless to resist them. When he had finished Coleman says the governor slapped him on the shoulder and said, "Go it, old boy! But get through as quickly as you can. Don't prolong it; because there is terrible opposition and terrible pressure."

A few days before King was shot the governor had tendered Captain William T. Sherman, then manager of Lucas, Turner, & Company's bank, an appointment as major general of militia, and Sherman had accepted. He had gone to the boat in company with Cornelius K. Garrison on that evening to meet the governor but had missed him, though he found him later at the hotel and remained with him until after 2 A. M. The next day,

*See article by William T. Coleman in *Century Magazine* for November, 1891.

apparently,* he wrote a full account of what happened to Major Turner, his partner in St. Louis, which is altogether the most reliable report of what transpired that now exists, as all others were written many years later. He appears not to have known that the governor had met Coleman, as he does not mention the meeting; and Coleman's account of the later meeting at committee headquarters says that the governor asked him the same questions he had asked at the hotel, just as if he had not previously seen him.

Sherman had visited the jail on Thursday, and after he found Johnson, had told him that the place could not be defended. He had found the sheriff supported by not more than a hundred men, including the deputies, the police, and the citizens who had responded to his summons. The militia companies were practically disbanded and many of their members had gone over to the committee. The only way that so small a force could hope to resist the numbers likely to attack them, would be to take possession of all neighboring buildings, and other points of vantage in the neighborhood; and it was now too late to do this as the vigilantes had already seized them.

After making this statement he and Garrison, together with the governor, made a visit to and inspected the jail, after which they went to the committee headquarters in Turn-Verein hall, and asked for Coleman. He soon after came out and conferred with them in a saloon near the entrance of the building. According to Coleman's report he went over practically

*The letter is not dated, though a postscript is dated Sunday afternoon. See *Century Magazine* for December, 1891.

the same ground as in the earlier interview. Sherman says Coleman outlined what the vigilance committee intended to do, particularly in the case of King's death, and adds, "all of which was so fair that we almost coincided with him in opinion." He at first wanted Casey surrendered to the committee, but Johnson told him "he would enforce the law as speedily as its form would allow, but would never consent to Casey's being taken from the custody of the sheriff."*

Finally the governor suggested that if the committee felt doubtful about Casey's safe keeping, they "send a few men to the jail to be considered as assistant guards," the committee to give their pledge that they would not attempt any violence, or conspire with those outside to take Casey from the sheriff's care; and if a change of purpose became necessary, these assistant guards should be withdrawn, or "reasonable notice given."

Coleman then returned to the committee rooms to submit this proposition to his associates, while the governor and party waited. Later he returned accompanied by six other members of the executive committee and after some discussion, and with slight modification of the governor's proposition, it was accepted, the governor asking all to understand that "he treated with them as individuals, and not in their capacity as a body of men leagued together for a purpose unknown to the law."

*Other accounts say that he proposed to guarantee, in addition, that Casey should be tried before Judge Norton. This was Myron Norton who had been a leader in the constitutional convention, and as a judge had lost none of the public confidence and esteem he had won at that time. The committee, however, did not care to accept the governor's offer, fearing perhaps that he might not be able to carry it into effect.

Ten men to act as assistant guards were soon chosen, and the governor and his party, together with Coleman and Miers F. Truett went to the jail to install them. The sheriff was at first loath to admit them, but finally yielded, and two o'clock Saturday morning they were taken inside, a room assigned them, and two of them stationed near the door of Casey's cell.

In the letter written to his partner, General Sherman describes what was said and done at this time, from the view-point of an officer of the state militia, a loyal supporter of the governor and co-worker with the sheriff and mayor to maintain the law. In another written about the same time* to his father-in-law, Hon. Thomas Ewing of Ohio, he more frankly discloses his own individual view of things. He describes the conditions in the city as quite as bad as other writers have pictured them. Officials had been elected by ballot box stuffers and were for the most part the kind of men that such people would elect. The sheriff was "a shoulder hitter" and had been deserted by all except about one hundred supporters. The mayor was "a large, good man but as usual so mussed up and involved in old business that he could do nothing." The military companies shared in the general sentiment and would not risk themselves to defend such rascals as Cora and Casey. "The entire community is on one side." At no time, by concentrating all the discordant elements, could he count on more than a hundred inexperienced men to follow his lead, if he should attempt to exercise his authority under his new commission. With the conduct of the committee and those who were obeying it he could find no fault

*It is dated May 21. *Century Magazine* for December, 1891, *p. 301.*

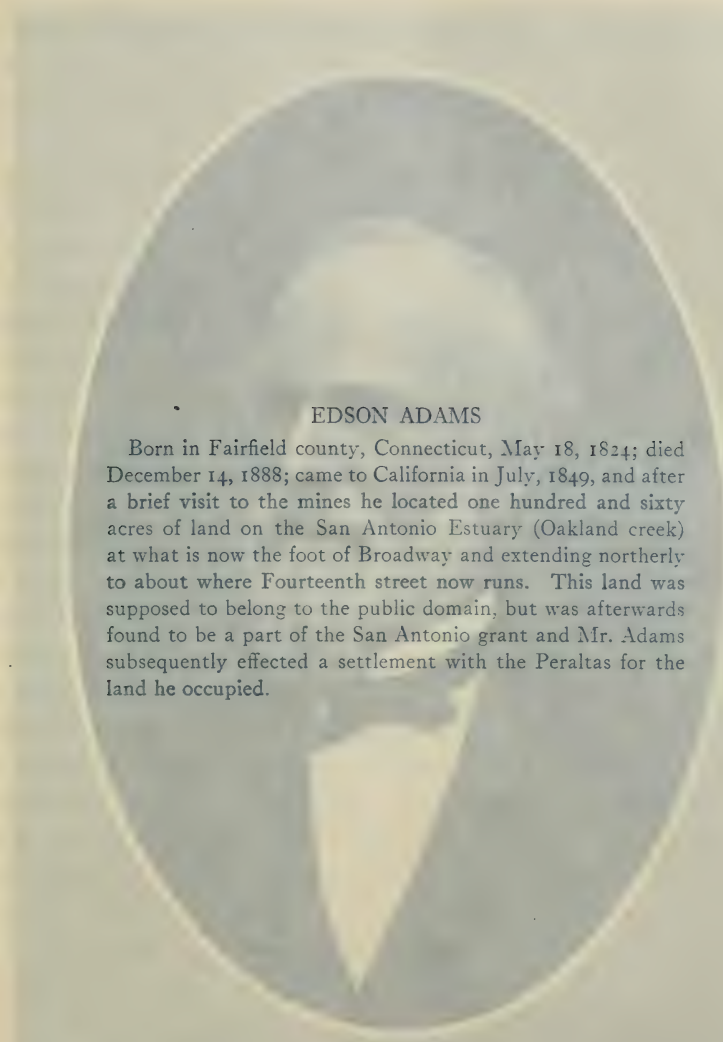
so far except that they were "showing an enmity to the free expression of opinion that looks like other similar events in history."

On Saturday the governor was sharply criticized by some of the sheriff's citizen supporters, particularly by those who were lawyers, for having conferred with Coleman and his co-workers, as well as for admitting ten of them to the jail as extra guards. The sheriff, possibly at the suggestion of the same advisers, had called at the committee rooms and asked to have the ten men reduced to five; but this was refused, and he had suggested other modifications of the arrangement made the night previous, to which the committee refused to agree. The governor, a notably weak man, who had thus far been less anxious to find out what was right and practical to do than what was likely to be most politic, began to be uneasy and sent for Sherman. He was told that the committee had already repudiated the agreement made only a few hours before, and when Sherman arrived they went together to the new committee headquarters to inquire about it. Coleman was not present, but other members assured them that nothing had been changed.

Sherman's letters indicate that he and the governor suspected a revolution had taken place in the committee because they did not find the same men on duty that they had formerly met. They fancied that a more radical and less responsible element was now in control, and that perhaps Coleman had been deposed. They did not reflect, or possibly did not know, that the committee was always in session and that the members on duty changed as often as exhausted

nature required. Those they now met did not misunderstand or misinterpret the agreement made the night previous, though it is quite possible that they were not inclined to accept the interpretation the governor, now that he knew what others thought about it, wished to put upon it; and to prove that there had been no change, and make sure that none would be made by others, they made a redeclaration in the form of a resolution, soon after the governor had departed, and sent him a copy by the hands of a committee, so that he could not fail to receive it. This resolution declared that the committee would make no change at the county jail; that it had no further answer to make at that time; that the governor should be notified that it maintained the agreement made the night before, but that it involved no pledge on the part of the committee, except that it would make no attack on the jail while its guards remained in it.

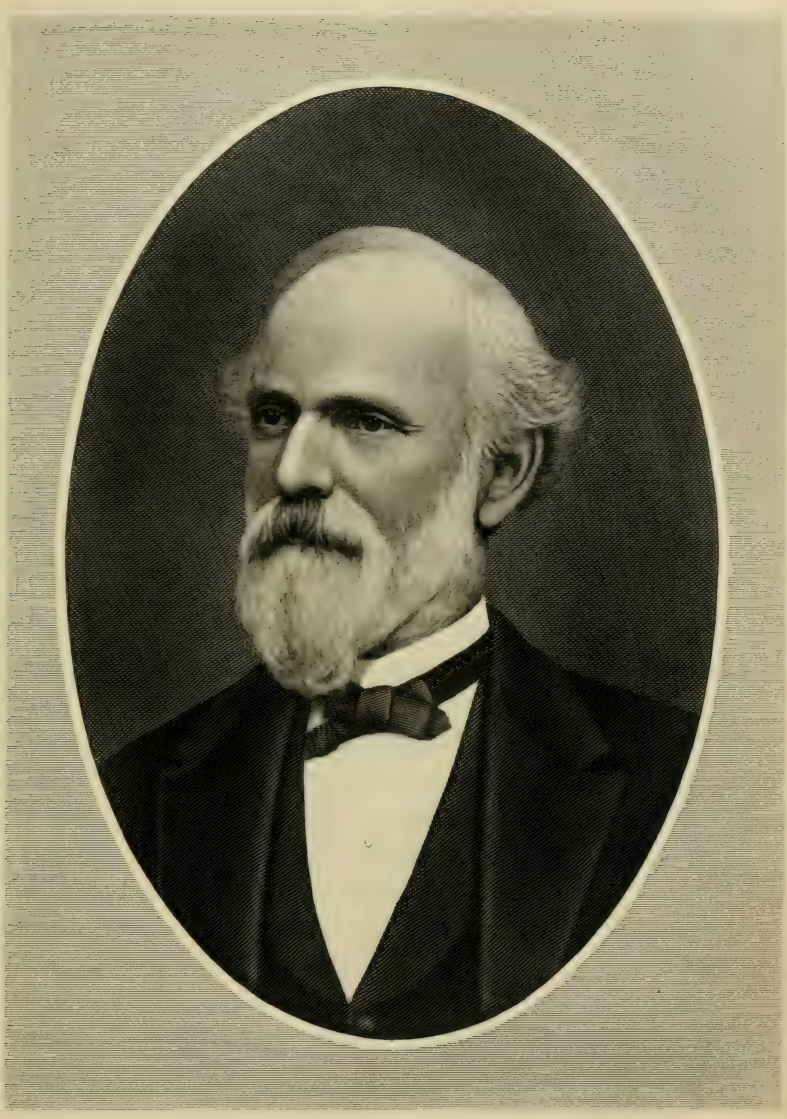
On Sunday morning May 18th the streets of San Francisco presented a scene of unwonted activity for that day of the week. There were as many people in them as on other days when all the stores and shops were open, and all were tending toward the building on Sacramento street near Davis. No alarm had been sounded. People went their way as peaceably as if going to church, though none seemingly were seeking the houses of worship. If any talked together as they walked, it was without show of excitement and in the tone of ordinary conversation. There were inquiries about King's condition, and those who had information gave it. He was still alive, but as before there was no hope of his recovery. It was only a question of hours when his life must end.



EDSON ADAMS

Born in Fairfield county, Connecticut, May 18, 1824; died December 14, 1888; came to California in July, 1849, and after a brief visit to the mines he located one hundred and sixty acres of land on the San Antonio Estuary (Oakland creek) at what is now the foot of Broadway and extending northerly to about where Fourteenth street now runs. This land was supposed to belong to the public domain, but was afterwards found to be a part of the San Antonio grant and Mr. Adams subsequently effected a settlement with the Peraltas for the land he occupied.

Edson Adams



Edson Adams



Along Sacramento street, in Davis, Front, and other streets men with muskets and bayonets in their hands were forming in companies of hundreds as they arrived; but as drilling had been going on there the day before, and in the neighborhood of Turn-Verein hall the day previous to that, this was at first not a matter to excite remark. The armed companies soon extended to other streets and began to assume the proportions of an army. One or two companies were mounted as if to form a scouting party, and there was also a cannon drawn by horses. A man on a white horse was riding along the lines as they were formed, and others were carrying his order in various directions. Other long lines of men without arms, but apparently having some part and interest in what was going on, were forming while still others watched the scene curiously but approvingly from windows and housetops.

A little after noon these armed and unarmed men began to move west along Sacramento, California, and Clay streets, turning into Montgomery, Kearny, Dupont, and Stockton streets as they reached them. Though not uniformed all marched with the regularity of soldiers, without confusion and without noise of any kind except the commands of the officers which were quietly given. Crowds followed, while hundreds looked down upon the marchers from windows and roofs along all the streets through which they passed. The governor had been notified some time during the forenoon that the special guard would be immediately withdrawn from the jail, and as this, according to the formal notice sent him the day previous, was the signal that the truce was at an end, he had immediately sent for Sherman.

Together they watched the moving masses in the streets from the roof of the International hotel, a five story building on Jackson street between Montgomery and Kearny. Sherman estimated the armed marchers at twenty-five hundred and the unarmed, who marched arm in arm beside them, at as many more, while at least five thousand "followed them as to a show." There were at least ten thousand waiting for them "within a rifle shot of the jail. Telegraph hill was black with them."

As the marching columns reached Broadway, they turned into it from east and west and formed a line facing the jail. The cannon was brought up, planted immediately in front of the building, loaded and aimed at the door. A carriage followed containing Coleman and Miers F. Truett. It stopped near the strong wooden steps leading up from the street, where it waited while its occupants alighted, mounted the steps and advanced to the jail door.

Sheriff Scannell was inside with some twenty or thirty deputies. The governor had called there after receiving notice from the vigilantes that the guard had been withdrawn, and they had taken council together as to what the sheriff should do in case such a demand as was now to be made should be presented. It was evident that he could not successfully resist it; to fight to defend the jail would be madness; many might be killed but the jail would inevitably be captured and the prisoners taken. The governor had therefore advised that if the committee appeared "with sufficient force to make resistance idle, the prisoners should be given up under protest."

There could be no doubt about the sufficiency of the committee's force. Coleman and Truett were accordingly admitted, but were told that Casey was armed with a knife and threatened to resist. This was true, but he was persuaded, without a long parley, that resistance would do him no good and he gave up the weapon.

When Coleman and Truett appeared at the jail door with their prisoner, the crowds began to cheer, but the demonstration was soon suppressed by the committeemen and officers. Casey was led to the carriage which he entered and was driven to Sacramento street, accompanied by a sufficient guard, the main body remaining as originally stationed at the jail. It was evident to the waiting crowds that Casey was not the only prisoner to be removed, and they had not long to wait to learn who the other prisoner was; for the carriage soon returned and Cora was brought out. The armed marchers accompanied it to headquarters, and then marched to the water front where their muskets and rifles were discharged into the bay. They had evidently been ready for serious use had there been need, but there was none. The crowds quietly dispersed and before the close of the day the city was as quiet as it had ever been on any Sunday afternoon.

Casey and Cora were lodged in separate cells—two of the eight with which the new headquarters had already been provided. On searching the prisoners after their arrival, Casey was found to have carried a second knife concealed in his boot, though he had not attempted to use it. That he should have been permitted to have two such weapons in his possession,

shows that there was good reason to distrust both the efficiency and the fidelity of the sheriff and his deputies as keepers of dangerous criminals.

The prisoners were no longer allowed to see visitors. Even the archbishop of the diocese, who asked to visit Casey as his spiritual adviser was refused; one of Cora's attorneys who applied was told that his client would have no further need for his services. The sheriff accompanied by a deputy appeared later with a writ of habeas corpus, but was told that it would not be recognized.

The trial of the prisoners by the executive committee was fixed for Tuesday, May 20th. Before it was begun, it was resolved that no adjournment, or recess for more than thirty minutes should be taken until it was concluded; that only one person should question the witnesses on direct examination, though any member of the committee might cross-examine; that each prisoner might select any member of the committee he preferred to act as his attorney, or assist in his defense; that a majority vote might convict, and that a verdict of conviction so found should be reported for approval to the general body of the committee, as if found by unanimous vote.

Cora was arraigned first. He chose Miers F. Truett for his attorney and Truett asked to be assisted by Thomas J. L. Smiley, which was allowed. John P. Manrow acted as prosecutor. All the witnesses asked for by the defendant were summoned, as well as those for the prosecution. All were fully examined and their testimony taken down in writing. The prisoner no longer displayed the confident air he had shown so

offensively when tried in court; he evidently realized that he was on trial for his life, and that the trial was in earnest. He gave the closest attention to everything and when all was done and the case submitted, is said to have expressed satisfaction with the defense made for him.

Casey's trial followed immediately, the same gentlemen who had served in Cora's case acting for the prosecution and defense. Both trials were concluded by Wednesday morning, and each resulted in a verdict of guilty. No other verdict in fact was possible in a court when evidence was taken at its true meaning. Each had shot a man almost without warning, giving him no opportunity to defend himself. Neither victim had had arms in his hands; and if he had a weapon about him had no time to draw it. Cora had pleaded that he had believed his life in danger, and so sought to make it appear that he had acted in self defense. Casey claimed that an injury had been done him which he had a right to resent, and that he had called upon his victim to defend himself before he shot him; but both pleas were held to be insufficient. They were in fact trivial and only a special pleader could make them appear otherwise.

The findings of the executive committee in both cases were referred to the board of delegates, which was composed of eighty-one members, and by it approved. The sentence was death and the hour of execution was fixed for Friday the 20th, at twelve o'clock.

Soon after the trial of Cora had been begun on Tuesday the death of King had been announced. He had expired at half past one o'clock. As soon as news

of it was received all business was suspended in the city, and people began to drape their houses and other buildings with black. All flags, including those on ships lying in the harbor, were lowered to half mast, and the bells on churches and engine houses were tolled. An immense crowd assembled about the building in which the body lay, and as soon as it could be prepared for burial the people were admitted to view it.

Thursday at noon was appointed for the funeral, and long before that hour an immense crowd had assembled, while all the streets through which the body would be borne toward Lone Mountain were lined with patient multitudes, waiting to pay a silent tribute of respect to a brave neighbor who had sacrificed his life in defense of the good name of their city. At the hour appointed the hearse, drawn by four white horses and attended by fourteen pall bearers, preceded by the Masonic fraternity and followed by friends, moved to the Unitarian church on Stockton street, where the funeral services were held, after which the funeral procession was reformed and proceeded to the cemetery. In it besides the Masonic bodies, mourners, friends, and officiating clergymen, were the employees of the "Bulletin," the California Pioneers in full regalia, members of the press, Sacramento guards in uniform, San Francisco fire department, St. Mary's Library association, and members of various civic societies and workmen's guilds, making a funeral display such as had never before and has rarely since been seen in San Francisco.

While these funeral arrangements were preparing the executive committee of the vigilantes had met and

resolved that the execution of Casey and Cora should take place while the funeral was in progress, and that they should be hanged in front of the committee rooms. Both were notified to prepare immediately for death. Casey had been permitted to write to his mother to whom he was much devoted, and to see such friends as were necessary to arrange his business affairs. Two priests of the Catholic church were summoned, and the woman who had poured out her money so freely to save Cora's life was sent for in order that she might be united to him in marriage.

Meantime a platform was prepared in front of the windows of the second story of committee headquarters, above which two noosed ropes depended from beams projecting above the roof parapet. The armed and unarmed legions which had marched so quietly to and from the jail on the preceding Sunday, were drawn up in Sacramento, Front, and Davis streets, and cannon were so placed as to command all possible approaches. The roofs of all buildings were covered with spectators. Thousands who had overlooked the procession which followed King to his grave had hurried toward committee headquarters as soon as it had passed, anticipating what was to be done there.

Shortly after one o'clock the prisoners were led through the opened windows to the scaffold. The arms of both were pinioned. Each was attended by his confessor, and appeared to be resolved to meet his fate calmly. Both were offered an opportunity to speak if they wished to do so. Cora declined to say anything, but Casey spoke for some minutes, denying that he was a murderer, insisting that he had rightfully

resented an injury, and that his faults were those of his early education. He grew excited and somewhat incoherent as he progressed, and seemed likely to become hysterical but he did not.

When he had finished the ropes were quickly adjusted and the traps sprung. Though all arrangements for the double execution had been hurriedly made, every part of the instrument of death performed its office readily, and apparently without inflicting unnecessary pain. The bodies were left hanging nearly an hour and were then turned over to the coroner. Later that of Cora was delivered to the woman who had been his mistress and was now his widow; that of Casey was taken in charge by the Crescent Fire Engine Company of which he had once been captain. It was buried in the cemetery of the Mission Dolores, where the monument erected by his comrades marks the grave to this day.

The committee now resolved to purge its enrollment of undesirable characters, for the work it had to do was not yet completed. Some such characters were known to have joined its ranks, and it was suspected that others had done so. These could have no interest in what was to be done, except to balk and hinder it; they would be as spies in the camp to give timely warning to their fellows if in danger, and worse still by their evil deeds might bring good work into disrepute.

What had been done so far had been punitory only; that which remained to do was to be reformative. In doing it it might at some time be necessary to work close to the line of private right, and the committee did not intend to overstep it, even inadvertently. The guilt

of Cora and Casey had been clear and the proof abundant—nobody doubted it. The penalty they had suffered had been that prescribed by law for the crimes they had committed. If it had not been inflicted in the mode prescribed by law, it was because those whose duty it was to inflict it had made the law inoperative. Some of these were now to be brought to book. Some of them were known and some only suspected. To bring their offenses home to all, or even the worst of these would require secrecy, loyalty, tact, and courage and every worker must be thoroughly in earnest. As in the other cases the punishment to be meted out to the guilty might not be inflicted in a legal way, but it would be no more grievous than that the law would impose, if in unrestricted operation; there would be nothing vindictive about it.

A sub-committee was appointed in every company to eliminate its undesirable members and report their names. The executive committee itself was reorganized and its work divided. A black list of certain notorious bad characters was made up, and certain other names were reported for investigation. Special effort to arrest Ned McGowan and Peter Wightman, who had been conveniently near when Casey shot King, and were believed to have really been his accomplices, was ordered but they were then in hiding and afterwards fled the city.* Rewards for their apprehension were offered and some of those who joined in the search for them

*McGowan wandered for several weeks in the mountains along the coast as far south as Santa Barbara, and sometimes narrowly escaped arrest when forced to leave his hiding place in search of food. He afterwards returned to the city and published an account of his relations with Casey and of his flight and subsequent wanderings.

entered private houses without authority, in some cases claiming to act by direction of the committee. Those who thus abused the right of search were reprimanded or dismissed and the chief of the committee's detective force was changed.

Apprehension of objectionable characters was begun on Sunday, May 23d, when five of the most notorious with Billy Mulligan at their head were taken into custody. Their trial began on the 27th, and ended with a verdict that Billy Mulligan, "Yankee" Sullivan, Martin Gallagher, Billy Carr, and William Kearny had been for years disturbers of the public peace, leaders of an organized gang of ballot box stuffers and pests of society, and they were ordered to be deported, with a warning never to return under penalty of death. This order was approved by the board of delegates and all the defendants were in time sent away except Sullivan, who committed suicide in his cell.

Early in this part of its work one of the ballot boxes which had been used in precincts where Sullivan and others of his kind had been judges of election, to secure the success of their candidates, was found and taken to the committee rooms. It was apparently an honest box about two feet long, fourteen inches wide and a foot deep with a narrow moulding around the bottom. There was a hole on the top for the introduction of ballots and a lock on the lid, all seemingly regular, and the box was painted blue. Close examination, however, showed that the moulding concealed a false bottom with a narrow space between it and the true one. There was also a false end of similar kind, and the lock could be turned without its key by pressing the lid at

the proper place. To elect any candidate or set of candidates with this dependable machine it was only necessary to place as many folded ballots containing their names as might be thought necessary in the spaces between the false and true bottom and ends, before the voting began. Then it might be watched all day by any number of alert challengers until the voting closed, when in rearranging the tables and chairs to begin the count, or at some other convenient time, it would be easy for the judge in charge to invert the box, withdraw the false bottom and end also if thought necessary—allow the false ballots to mix with the genuine, and then return the false bottom and end to their places. Presto change! The elected candidates were defeated and the defeated ones elected.

This box was exhibited on June 14th at a public meeting held in front of the Oriental hotel and attended by possibly fifteen thousand people. Bailie Peyton held it up so that all might see it. It was, he said, "a double improved back action ballot box." It was a harp of a thousand strings, but he could not play upon it, though he believed Ned McGowan might, if he could be found. In his hands, or the hands of such as he, it was a powerful machine, for it could elevate the meanest vagabond to the highest office in the people's gift.

An effort to secure Mulligan's release by habeas corpus, was made after he was convicted, but the committee cleverly evaded it. Meantime it went on with its work of driving bad characters from the city. Edward Bulger, Charles P. Duane, John Crowe, Ira Cole, James Hennessy, John W. Bagley, James Cusick, Terrence Kelley, James Claughley, Jacob Ritchie, Jack

McGuire, and Michael Brannigan were arraigned, tried, convicted, and ordered to go and never return. They were not only ordered away, but were placed on ship board and if not able to pay, their fares were paid for them. All went; a few returned years afterwards to swagger about the city for a time, but nobody regarded them. Mulligan remained in New York for some years where he occasionally sought satisfaction by bringing suits for damages against such members of the committee as fell in his way while on a visit to that city, and so causing them annoyance, though not increasing his own wealth.

This work proceeded so rapidly and so smoothly that early in June members of the executive committee began to regard it as about finished—had in fact resolved to celebrate its completion with a grand parade on July 4th—when new complications arose. The governor, on returning to Sacramento, had fallen under the influence of new advisers who had persuaded him to adopt an aggressive policy. On June 2d he had ordered General Sherman to call upon the militia companies and independent military organizations, to report to and act with him in enforcing the law. On the following day he issued a proclamation declaring the county of San Francisco to be in a state of insurrection, and ordering all volunteer militia companies, and all persons subject to military duty in them, to report to General Sherman. He further ordered all militia organizations in the third, fourth, and fifth divisions—which were outside the city—and all persons subject to military duty in such divisions, to hold themselves in readiness to respond to and obey his orders. In addi-

tion he ordered the vigilantes to disperse and yield obedience to the laws, the processes of the courts, and all legal officers of the state and county.

This had a resolute and warlike sound, and many people feared that a collision might follow. Sherman issued his call as directed, and then went to Benicia to meet the governor, and confer with General Wool and Captain Farragut, who were in command at the arsenal and navy yard respectively, in regard to procuring arms. The state had no arms in San Francisco except the few the sheriff had seized, which were wholly insufficient, and it would be useless to enroll men to enforce the law unless they could be armed. The governor asked for a loan of arms, if they could be furnished, and if not that such arms as the state would be entitled to receive from the national government might be turned over in advance. Wool thought he had no authority to loan arms and Farragut knew he had none. Wool, after some persuasion, was disposed to yield, and as the governor and general both believed, gave some sort of promise to comply with their demands. The governor then returned to Sacramento and the general to San Francisco.

In a second letter to his father-in-law dated June 16th,* Sherman says that on his return he found that "men were enrolling on our side pretty fast." He thought the vigilantes were becoming alarmed. The people were beginning to be restless and feared civil war. Public sentiment was still strongly with the vigilantes, and "the law and order party, as we are styled, is in public estimation, synonymous with the rowdies,

Century Magazine for December, 1891, *p. 302.*

shoulder hitters and ballot box stuffers." Nevertheless there were some estimable men in it. Most of the lawyers and some of the judges, even those of the highest standing, with whose records nobody was finding fault, were on that side. It was quite natural they should be, for lawyers and judges alike were officers of the courts, and the courts were a principal object of censure by the vigilantes. There were also other estimable men on that side, merchants and professional men, some of whom had been members of the committee of 1851, though their number was not large compared with those they were opposing.

Though forcible opposition did not yet seem to be imminent, the executive committee of the vigilantes directed its military officers to make any preparations for defense that they might think necessary. Across Sacramento street and opposite the building which had become their permanent headquarters, there was a vacant lot running through to Commercial street. This might expose it to an attack by artillery from that direction. A breastwork of gunnybags filled with sand was accordingly erected in the street in front of the building. It was about nine or ten feet high and extended across the whole front and across the sidewalk at both ends. Behind it five cannon were planted, while two others were mounted on the roof, and four brass six pounders were kept inside the building, or in the alley opening from the rear to Davis street. People now began to call the place "Fort Gunnybags." In the rear there was also a stable where twenty or thirty horses were waiting under saddle or harness ready for instant action. The old bell of the Monumental

Engine Company, which had occasionally served the committee of 1851, was procured and mounted on a framework on the roof, where as formerly it would summon all members to headquarters if there was need.

As the enrollment of the law and order party progressed a few citizens, some of whom possibly sympathized with it, and some members with the vigilantes, undertook to open the way for negotiations, so as to avoid a clash. These were F. W. Macondray, James D. Thornton, James Donohue, Bailie Peyton, Joseph B. Crockett, Martin R. Roberts, John Sime, Henry S. Foote, and John J. Williams. They called at Fort Gunnybags and had a conference with the committee, after which it announced that it would not thereafter forcibly resist service of any writ of habeas corpus. A second visit was made a few days later as the committee was about to leave for Benicia to confer with the governor, when it was authorized to say to his excellency that if his proclamation was withdrawn the vigilantes would make no further parade of their forces in the streets, and would not forcibly resist orders of the courts. If, however, the proclamation was not withdrawn they promised nothing.

On Saturday afternoon June 7th the peace committee went to Benicia to confer with the governor, having apparently learned that he was to be there. By the same boat went General Sherman, whom the governor had summoned to meet him for a further conference with Wool, who by this time had definitely refused to furnish the arms asked for. They found the governor accompanied by David S. Terry, a justice of the supreme court, Volney E. Howard, Edward Jones of

Palmer, Cook, & Company, and Edward D. Baker, all "men of violent feelings" according to Sherman's view, and "who were determined to bring about a collision of arms if possible." They were apparently the advisers who had urged the governor to adopt the policy he was then pursuing. The governor's humor was notably changed. He reproached Sherman for having come to Benicia with "a committee of vigilantes," and was not easily convinced that Crockett, Thornton, and others who had come with them were citizens of moderation, who wished to see the rule of law restored and were doing what they could to restore it. They represented those from whom the governor must look for help if he was to find any. Sherman appears to have believed that with their help matters might have been brought to a satisfactory conclusion, had not Terry, Howard, and others prevented.

The governor received these gentlemen very coldly. When they called at his hotel he sent word that they should state the nature of their business in writing. While they were preparing their statement Sherman came in and went direct to the governor's room, where he found him surrounded by his new advisers. Some of them were "violently denouncing Wool as a liar," the vigilantes as "a set of pork merchants," and the gentlemen who were waiting outside as no better than the vigilantes. Sherman reminded them that there were comparatively few people in San Francisco who were willing to oppose the vigilantes; that they were without arms, and that arms could be procured only by Wool's order. Under the circumstances he thought a policy of prudence and moderation should

be pursued. Finally Crockett and his party were admitted and allowed to make their statement, but were not listened to over civilly, according to Sherman's way of thinking. After they had made their representations and withdrawn, Terry and Howard were more violently in favor of an aggressive policy than ever. The vigilantes were "caving in," they said, and the governor must follow them up promptly and force them to disband.

The governor, with the help of Terry and others now prepared a written reply to Crockett and his party, in which, while expressing the hope that the unhappy difficulties in San Francisco might be terminated without bloodshed, he declared that it was his duty to enforce the laws, and that duty he would perform. If unhappily a collision should occur and injury to property and life follow, the responsibility must rest on those who disregarded the authority of the state.

Not caring to oppose his own opinion to the warlike views of those whose counsel was so much more readily accepted, and convinced as he was that he could neither raise a force large enough to cope with the vigilantes, nor get arms for it if he could raise it, Sherman now tendered his resignation and it was accepted. Howard, one of the Terry party, was at once named to succeed him. Howard, like Terry was a Texan, and quite as much in favor of warlike measures as those who were at the moment with him. He knew but little, however, of the situation in San Francisco, and as will be seen, found it much easier to threaten violent measures than put them into successful operation.

On his return to San Francisco Sherman published a statement, giving the reasons for his resignation. He also wrote to Ewing that "now even such men as Governor Foote, Bailie Peyton, Mr. Dunn, etc., approve all that they—the vigilantes—have done and all that they intend to do." The vigilantes "have organized a power irresistible by any force at the governor's call, and have wielded that power without violence.*

The vigilantes were not in any way alarmed by the governor's warlike declarations. On learning of the failure of the efforts of the volunteer mediators they strengthened their defenses, replenished their supplies of arms and ammunition, rescinded the conciliatory resolutions they had adopted, and published an address more fully setting forth the objects they intended to accomplish. These were mainly to put an end to corrupt methods in the election of public officials, to drive all ballot box stuffers, cutthroats, and blacklegs of every sort out of the city, and to put an end to murderous assaults upon peaceable citizens.

The committee which had visited Governor Johnson at Benicia called a meeting for June 14th to be held in front of the Oriental hotel to report the result of their efforts at conciliation, and declare their conviction that now that the governor was bent upon a resort to forcible measures nothing remained for loyal citizens of San Francisco to do but sustain the committee as unanimously as possible, and by the most effective means. This was the meeting at which the famous ballot box was shown, as already described. Business was in a large degree suspended for the day and immense throngs

*Letter to Ewing above quoted.

of people attended. The resolutions adopted first expressed confidence in the constitution and laws of the United States and the State of California to maintain tranquillity and prosperity. This was to set at rest an idle report, similar to one that had some years earlier and that would again trouble the minds of Californians and others, that a Pacific republic, wholly separate and apart from the United States, was in the opinion of many, of all things most desirable; and that a movement to set it on foot had been or would soon be started. They also expressed confidence in the people and the vigilance committee, the people's organization; declared that the governor had been misinformed as to the necessity which had forced it into existence; requested him to withdraw his proclamation, and asserted that while believing there was little cause for alarm, yet if disappointed in their hope for an early termination of present troubles without resort to forcible measures, they would organize and maintain the right. A separate resolution was also proposed and adopted, providing that a fund should be raised by general subscription and placed in the hands of a special committee, subject to the orders of the executive committee of the vigilantes, to be used as needed for defense or to carry on its work, and any unexpended balance remaining when its work should be completed, should be divided among the orphan asylums of the city.

Meantime the committee went on with its work of driving objectionable characters from the city. None were ordered away until they had been tried and convicted of some specific offense or offenses. Some who were for a time under suspicion, and some who were

apprehended and put upon trial, were found to have been unjustly accused or sufficient proof of guilt was not found to convict, and they were not further molested. Some fled voluntarily; some who were convicted asked for time to arrange their affairs before departure, and it was usually granted. Some who were convicted resisted deportation but were taken on board some outgoing vessel and forced to go.

Many undertakings were suggested to the committee as worthy of its attention that it declined to consider. It could not accomplish all the reforms that everybody suggested, nor all that some of its own members thought desirable. It did, however, call upon certain city and county officials to resign, and sent a special committee of its members to present the demand, but as they were not able to enforce it none of the officials complied.

The governor and his partisans meantime proceeded with preparations to put the committee down by force. Howard, the new major general, found some of the military companies in the city, or some members of them, ready to act under his orders. Among these were the San Francisco Blues, the Marion Rifles, the Sarsfield Guards, the Continental and National Lancers. All these were armed. Application to General Wool was renewed for the arms he felt authorized to furnish the state, and though still refusing a loan, six boxes of muskets were delivered to James R. Maloney and John G. Phillips on June 19th to be sent to San Francisco by the schooner *Julia*. Learning of this the executive committee sent John L. Durkee and Charles E. Rand with eight or ten men on another vessel to capture them,

which they did near Point San Pablo, bringing them to the city, where Maloney and Phillips were released and the muskets taken to vigilante headquarters.

But the committee did not approve of the release of Maloney and Phillips and sent one of its special policemen named Hopkins to arrest them. Hopkins was not a tactful official. On the contrary he seems to have been one of those men who are as dangerous to their friends as enemies, when armed with a little brief authority. He found Maloney in the office of Dr. Richard P. Ashe, United States Naval agent, and captain of a company in the governor's law and order party, surrounded by a number of his adherents, among whom was Justice Terry, who by virtue of his office forbade the arrest. Lacking force enough to take Maloney from the party which surrounded him, Hopkins retired, but later returned with reinforcements and overtook Maloney and his party on the way from Ashe's office to the armory of the San Francisco Blues at Dupont and Jackson streets. All are said to have been armed with revolvers, but Judge Terry in addition had a knife, and when Hopkins attempted to take Maloney, stabbed him in the neck inflicting a deep wound, which at the time was supposed to be dangerous and likely to prove fatal.

The wounded man was carried to the Pennsylvania Engine House near by, while Terry and party hurried to the armory. Report of what had happened spread rapidly, and the streets soon filled with people as much excited as they had been when King was shot. It was supposed that Hopkins would die. His wound was said to be four inches deep, and being so near a vital part most people assumed that it must be fatal. As it

had been inflicted by a justice of the supreme court everybody waited with keenest possible interest to know what the committee would do. Would they dare to arrest so high a judicial officer of the state? If Hopkins should die would they dare to try him for murder as they had tried Casey and Cora; and if guilty, would they dare to hang him? Questions of such burning interest do not often engage public attention.

Those who asked them did not have long to wait. As soon as news of what had happened reached the vigilance headquarters, the committee ordered Terry's immediate arrest, and the alarm bell was sounded. In response the members hurried together from all parts of the city, took their arms and formed in military order. Within half an hour after the bell sounded—which was about three o'clock in the afternoon—a strong force, headed by Marshal Doane and accompanied by a war committee similar to that which had directed operations when Casey and Cora were taken from the jail, was on its way to the armory in which Terry and party had taken refuge. As they marched their ranks were swelled by members who had not been able to reach headquarters before their march began; among others a number of draymen whose wagons were loading or unloading in the streets through which the marchers passed, slipped off the harness from their horses which they mounted and joined them.

Within an hour after Hopkins was stabbed all the armories of the law and order companies, as well as every place in the city supposed to contain arms likely to be at their disposal, was surrounded and the arms seized.

No resistance was anywhere offered; it would in fact have been useless. At the armory where Terry and Maloney were, a demand was made for their surrender and it was complied with, upon promise that no violence should be offered them. Ashe and some others were also taken into custody and all arms in the building surrendered.

In less than half an afternoon the vigilantes had relieved themselves of all need for anxiety because of an opposing force; the governor had been deprived of all means to assert his authority, and all because of the rash and ill-considered or unconsidered act of one of his advisers, who had been urging him on to attempt what it would have been better not to do even if he had ample power to do it. The committee was preparing to bring its work to an end—was satisfied with what it had done and had fixed a day for disbanding. But now it had a new responsibility thrust upon it, and a graver one than any it had previously coped with. Among the prisoners in its cells it now had a justice of the supreme court, who had stabbed a man. This man it was true had been engaged in an act not recognized by the law, but he had not in any way threatened the safety of his assailant. He was still alive, but if he should die, would his slayer be guilty of murder in the eyes of the law? If he was, would the committee be justified in dealing with him as a common murderer? Would they dare do it?

What they would have done can now only be surmised but there seems to be little reason to doubt that they would have faced their new responsibility as calmly and as resolutely as they faced every other. If there

is reason for doubt, it must be found in the fact that preparations were made to bring him to trial at once, while his victim was still living, and on a series of charges among which murder was not included. In fact murder could not be charged while Hopkins lived; but if he died it could not be avoided. At this distance of time it seems probable that some members of the committee hoped they might avoid the more serious responsibility by forcing Terry to resign and leave the state, with a promise never to return. Coleman says* the trial was "delayed by efforts of Terry's friends to make a compromise"; and three days after his arrest, on June 24th, Terry himself wrote to the committee asking for two weeks' time to arrange his business affairs for the benefit of his family, and adding: "I further agree that if death should ensue from the wound inflicted by me, I will at once resign my position, will make all necessary arrangements, and if acquitted will at once leave the state should you require it."† That there were members of the committee who shrank from the responsibility of hanging so prominent an official as Terry was, is indicated by this fact, that it was at first voted that two-thirds of the committee must agree before the penalty of death could be inflicted, and later this was reduced to three-fifths.

Terry was treated with more consideration than any other prisoner. He was placed in a large cell, his wife and some friends, among them A. P. Crittenden, James D. Thornton, Calhoun Benham and others were admitted to see him, though always in the presence of his guards.

*_Century Magazine_ for November, 1891.

†Letter given in full by Bancroft, _Popular Tribunals, Vol. II, p. 405._

The large number of prisoners taken when the armories of the opposition were raided and the arms captured, were set at liberty as soon as possible. Naval Officer Ashe, who had been with Terry at the time of his arrest, asked to be released on parole, in order that his official business might not suffer, and promised as a man of honor, if his request was granted, to remain "neutral in word and action." As the committee wished to avoid all possible complications, through interfering with federal officials in the performance of their duties, his request was granted.

Howard, the new major general of militia who had succeeded Sherman, being now deprived of anything to command, blustered about the city for a time, talking about "laying it in ashes" and then retired to Sacramento to make a voluble report, in which he declared that "the circumstances connected with this movement are such as to leave no doubt on my mind that the insurgents aim at nothing less than the entire overthrow of the state government and secession from the federal union." A week after his arrest, on June 28th, Terry wrote to Captain E. B. Boutwell, commanding the sloop of war *John Adams* then lying in the harbor, and after reciting his arrest, the indignities offered and the dangers threatening him, declared that some members of the committee "now openly threaten to seize the forts and arsenals of the United States, as well as the ships of war in port, and secede from the federal union."

That Howard at Sacramento, and Terry at San Francisco should be thus disturbed for the safety of the Union, its forts and arsenals, suggests that the idea

had been in their minds for some time, and possibly they had been urging it upon Wool and Farragut at Benicia in their efforts to persuade them to furnish the arms the governor needed. Nothing can be more certain than that it was an invention of their own. The committee had previously expressly declared, not only what it intended to do, but that it did not intend to interfere with the general business of government, either city, county, or national.

It had first been arranged to begin the trial of Terry on the day after his arrest, but it was delayed for various reasons. Miers F. Truett had been assigned to defend, and T. J. L. Smiley to prosecute, and it was at Truett's request that the first postponement was made, in consideration of the petition submitted by Terry's friends for a compromise, by which he was to resign and leave the state. Consideration of this proposition required time. Then it was suggested that a rescue was to be attempted and further delay was caused by preparations to resist it. Attempts to secure Maloney's release by habeas corpus were made. Durkee and others who had assisted in the capture of the arms sent by the *Julia* from Benicia, were indicted in the United States district court on a charge of piracy and their defense required attention. Meantime Captain Boutwell in command of the *John Adams*, had shown a nervous interest in what had been going on on shore. He had on June 21st written to inquire about the arrest of Naval Officer Ashe, and as to how long he was likely to be detained, as it might embarrass him in getting to sea as soon as he wished.

Immediately after receiving Judge Terry's letter of the 28th in which he invoked "the protection of the flag of his country," Boutwell wrote the committee that: "You are either in open rebellion against the laws of your country and in a state of war, or you are an association of American citizens combined together for the purpose of redressing evils, real or imaginary, under a suspension of the laws of California." If they regarded themselves as occupying the first position, he, as an officer of the United States asked them to deal with Judge Terry as a prisoner of war, and place him on board his ship; if in the second position, he thought they would, upon reflection, surrender him to the lawful authority of the state. He called upon them to "pause and reflect before you condemn to death, in secret, an American citizen who is entitled to a public and impartial trial by a judge and jury recognized by the laws of this country."*

Governor Johnson had also appealed to Boutwell notifying him that Terry had been seized while "engaged in the performance of his duties as a peace officer of the state"; declaring his own inability to protect him "without resort to means, which would, in all probability involve the state in civil war," and asking Boutwell to protect him with all the means at his command. To this Boutwell replied that the unanimity with which the people of San Francisco deprecated any interference with their affairs by the federal government was such that any effort on his part was likely to do much injury, endanger the life of Judge Terry, and delay the settlement of the unhappy

*Commanders' Letters No. II, dated June 28, 1856, Navy Department files.

controversy. A civil war, the greatest of horrors ought to be avoided if possible. He could destroy the city with the guns of his ship, but in the ruin friends as well as foes would suffer. If he could persuade the committee to set Judge Terry at liberty he should be most happy to do so; but if he demanded his release and they failed to give him up, he must either batter the town down or render himself ridiculous. If Hopkins should die, and Terry be condemned to death he would make an effort to save his life in such a manner as not to be offensive to his fellow citizens.

Instead of answering Boutwell's letter of the 28th, further than to say that it would "receive our consideration," the committee sent it to Farragut at Mare Island. Boutwell's ship at the time belonged to another command, but Farragut wrote him on July 1st cautioning him that the federal government had been very careful not to interfere with domestic troubles in the states, when no collision was made with the laws of the United States, and adding: "I feel no disposition to interfere with your command, but so long as you are within the waters of my command, it becomes my duty to restrain you from doing anything to augment the great excitement in this distracted community, until we receive instructions from the government."

Further correspondence between Farragut and Boutwell followed, in which the senior officer pointed out to the junior that in his letter to the vigilance committee he had referred to the action of Captain Ingraham in the case of one Koszta, who was not then an American citizen, as a precedent to guide him in the present case, and added: "How much more neces-

sary is it for me to use all the power at my command* to save the life of a native born citizen." This very plainly indicated, as Farragut thought, and as the committee had thought, that he—Boutwell—"would use all the power at his command in case his demands were not complied with, and the committee had appealed to him to intervene for humanity's sake. He was aware that "you are besought by the government party to blow the town down," but that fact only urged "that we should act in our public capacity with unbiased judgment."

While this correspondence was going on, and for some days afterward, the fate of Hopkins was the subject of most intense interest and speculation. While he was not a person of much consequence, the fact that Judge Terry's fate probably depended upon his, made him an object of keenest solicitude both to the vigilantes and their opponents. Soon after he was stabbed, a room in the engine house was specially furnished for him, not only comfortably but luxuriously. He was attended by Dr. R. Beverly Cole, chief surgeon for the vigilantes, and a member of the executive committee, and by his wife and mother as nurses. A committee was appointed to see that nothing that could be done to save his life was left undone. The whole engine house was given up to him, the street in front of it deadened so that he might not be disturbed by the sound of passing vehicles, and guards defended it against all intruders. The doc-

*By this Boutwell evidently expected the committee to understand that he contemplated opening fire on the city, since he says in a later letter to the secretary of the navy, dated July 3d: "The appeals of his distressed wife, and the fact that Judge Terry acted in self defense, would have almost induced me to batter the town down, if I could have done so without destroying the lives and property of the innocent with the guilty."

tors were in doubt for some days about his chance for recovery. His wound had bled profusely and he was much weakened by loss of blood. Bulletins reporting his condition were issued frequently and were watched for with equal interest by friends and enemies, both of whom were anxious to do anything in their power to save his life.

The opponents of the committee—known as the law and order party—though now disarmed and powerless to make forcible resistance, were active in every way that could be devised to save Terry's life and procure his release. There were among them the ablest judges and best lawyers in the city,* and they neglected no resource that might prove effective. They applied to Boutwell, to Farragut, to Wool, to the governor, and finally to the national authorities in Washington to do whatever might be done; but the national authorities were too far away to be easily consulted, and finally when they were reached, could see no reason for intervention; the governor would not withdraw his proclamation, and nothing else that he could do could have the slightest helpful effect. Propositions in various forms were made to the committee, but helped only by delaying matters.

More than a month passed before Terry's trial, frequently interrupted as it was, could be concluded. All the witnesses he asked for were summoned, and some were brought from distant parts of the state at the committee's expense. His counsel was allowed the utmost freedom in the examination, as well as in

*Mr. Coleman says: "They had all the city and state officers; they had with them the law and most of the lawyers, and all the law breakers." *Century Magazine* above quoted.

the cross-examination of those for the prosecution. The prisoner was even permitted to make an argument in his own defense, and he had coached his counsel at every step during the trial. He had in fact been denied nothing that he would have been allowed in a court trial, except that purely technical matters were not considered.

All or nearly all the members of the executive committee had sat as jurors in the trial, though some had not heard all the evidence and were therefore excused from voting on the verdict. The others were so divided in opinion that it was not easy to reach a conclusion to which three-fifths of their number would assent. Hopkins had now so far recovered that there was no longer any fear that he would die. The prisoner was therefore not guilty of murder, although some members of the committee and a much larger number of those who were not members, evidently thought he ought to be hanged. But he had not been charged with murder and had not been tried for that crime. Indeed, as now appears certain, the conservative leaders had hastened the trial on the lesser charge of assault with intent to kill, in the hope of inducing the judge to resign and leave the state; for if that could be brought about they would have escaped the responsibility of having to fix the punishment for the graver offense in case Hopkins had died. But Hopkins being out of danger the gravest offense of which the prisoner could be guilty was assault with a deadly weapon, with intent to commit murder. There was a possibility that he had acted in self-defense, although his own life had not been

in any imminent danger; for the stabbing had been done in a struggle for a gun which he held, and which Hopkins was endeavoring to take from him.

Then the question as to the punishment the committee might inflict for an offense more serious than assault and less serious than murder was no doubt perplexing. It was not a permanent body—was in fact anxious to conclude its work; it could not enforce a prison sentence; it could not force the prisoner to leave the country against his will, for the *John Adams* was lying at anchor off Sacramento street to prevent that; to hang a man for attempting to kill would be preposterous—the whole world would condemn the act.

Nevertheless those who favored hanging were not lacking. Five of the six charges on which the prisoner had been tried were disposed of without great difficulty —indeed two of them had been dropped. The attack upon Hopkins and the penalty to be imposed for it were troublesome, and after considering the matter through all of one night, part of the day and most of the night following, it was agreed to find the prisoner guilty of assault only; "and the usual punishment within their (the committee's) power to inflict not being applicable in the present instance," as the formal finding ran, the prisoner should be discharged from custody, though the committee believed the interests of the state imperatively demanded that he should resign his position as judge of the supreme court.

The board of delegates had even greater difficulty with this verdict than the committee had. This board was composed of nearly one hundred members, all of whom had been less closely confined to headquarters

than members of the executive committee had; and consequently more under the influence of popular sentiment with regard to Terry's case. This sentiment was most unfavorable to the judge, who, while very highly regarded by a large circle of personal friends and acquaintances, was still held responsible in a large degree at least, by most people, for the governor's opposition, and therefore for all the trouble that had ended in his own arrest and trial. Many were very bitter, and urged that he ought to be hanged whether Hopkins died or lived. Many of the delegates participated in this view, and were particularly opposed to setting him at liberty. A larger number insisted that he should be driven from the state. All believed he had been only inadequately punished by his seven weeks' imprisonment.

The delegates, after nearly a week of deliberation, resolved that Terry should be "banished from the state on the shortest possible notice, under the usual penalty" but the executive committee stood by their own verdict and nothing could be done until both agreed. Finally after a week spent in conferring and debating the matter the committee's verdict was reluctantly approved, and at two o'clock on the morning of August 8th the eleven members of the executive committee at that hour on duty, set the prisoner at liberty.

As soon as it became known that the judge had been released, there was much excitement and unfavorable comment. The committee became alarmed for his safety, and some of its members went to the house in Dupont street to which he had gone, and urged him to take refuge on the *John Adams*. Mr. Truett, who had

made his defense before the committee, was one of these, and accompanied him on board. On the following day the steamer for Sacramento drew alonsgide and he was transferred to her deck. As she drew away again a parting gun was fired by the *Adams* and her sailors gave a cheer, as the river steamer sailed away.

A report soon spread through the city that Boutwell had fired a salute at parting with his guest, manned the yards of his ship and given him a parting cheer—a special honor awarded only to people of high distinction —and the report excited much indignation. Boutwell later denied that he had shown his guest any special courtesy, further that to fire a single gun as a notice to the judge's friends in the city that he had left his ship. The cheer, he said, had been given by his sailors in response to one given by the crew of the river steamer, a thing not at all unusual; the yards of his vessel had not been manned.*

As soon as the executive committee had agreed upon its verdict in Terry's case, and while the delegates were considering it, its members turned to the trial of two murderers, both of whom were convicted and hanged before Terry gained his liberty. Philander Brace a hardened and notorious ruffian had been arrested before Hopkins was stabbed. He had just served a short term in jail for burglary, or some similar offense, but was now charged with the murder of a man named West, who had lived in the county. Before his trial was concluded another murderer named Joseph Hetherington was brought to headquarters. He had been a gambler and had accumulated some money, part of which he had

*Letter to the secretary of the navy, dated August 13, 1856.

loaned to Dr. Randall, who had not been able to repay it when due, and he had shot him. The shooting was done in the office of the St. Nicholas hotel in the presence of several witnesses, and had caused intense excitement. As soon as the murderer's identity was known it was remembered that he had shot another man three years earlier, in a dispute over a piece of ground on Greenwich street. He had been tried for that crime, but he had been acquitted as most other criminals had been. Now everybody looked to the vigilantes to punish him for both crimes.

On July 28th the trial of Brace was concluded and he was sentenced to death. Hetherington's trial immediately followed and resulted in a similar verdict and sentence. Both findings were approved by the board of delegates, and both murderers were hanged at the same time, on a gallows erected in Davis street. The execution, like that of Cora and Casey was witnessed by an immense crowd, that not only thronged the streets but covered the roofs of buildings in all directions for many squares.

The leading vigilantes now felt that their work was done. They had hanged four murderers, and driven twenty-three ruffians of various degrees of infamy into exile; one had committed suicide, and several had voluntarily fled the state, or gone into the interior where they could not be found. McGowan was still at large. He had been sharply pursued by agents of the committee for more than two months, during most of which time he had stolen from one hiding place in the woods to another, living like a savage, and having time to reflect

on the worthlessness of his miserable life. Seven or eight thousand men of affairs could no longer wait for him, and there was indeed not much reason to do so.

A day was accordingly fixed for ending the work that had been undertaken. Fort Gunnybags was dismantled, the committee rooms thrown open for inspection by any who might care to visit them; and on August 18th the vigilantes of 1856 paraded for the last time. The city had been gaily decorated for the occasion, and the display excelled anything ever before seen in San Francisco. There were four companies of artillery, with fifteen guns in line, the executive committee on horseback, followed by two companies of dragoons each preceded by a band, then the medical staff composed of about fifty members, and members of the committee of 1851, all followed by four regiments of infantry comprising about eight hundred men each. A float with a fairly good representation of Fort Gunnybags was a striking feature of the display. After marching through all the principal streets the procession disbanded and the military organization of the committee ceased to exist.

But the influence of the organization did not end there. Individual interest in the general public business had been quickened by the committee's work, and the good effect of it was felt for a long time afterwards. More care was taken in the selection of candidates for public office; even the lists of jurors, when drawn, were carefully scanned and objectionable characters excluded. Roughs and shoulder hitters no longer controlled the polling booths on election days, and ballot box stuffing ceased to be practised. The consolidation of the city and county government of San Francisco under one

municipal management happily vacated all the offices that year, and they were refilled by representative men. For a long time afterwards both city and county were better governed than they ever had been.

The work of the vigilance committee has been generally approved by the world at large since it ceased to be. It was in no sense a mob. There was nothing of mob methods or of mob spirit in what it did. All it did was done without passion, deliberately and equitably if not lawfully. Its aim was to make law operative, not to subvert it; and if it used means unknown to the law in doing this, it was because the ordinary means had been rendered inoperative by those who for the time controlled them. The penalties it imposed upon criminals were those that the law prescribed, where it had power to enforce them; and where it lacked power the penalties inflicted were less severe than the law would have inflicted upon offenders of the same class. The law, if it could have been enforced by regular means, would have imprisoned ballot box stuffers like Sullivan and bullies like Mulligan and Duane; but the committee had no penitentiaries and no power to send offenders to those the state provided. It accordingly sent them out of the country and did well in doing so.

Of Terry's case it is more difficult to judge with fairness. In 1856 men carried weapons far more generally than now; and personal encounters in which they were used were not uncommon. Terry belonged to a class that believed, as Andrew Jackson did, that personal affronts and assaults should not only be resented but adjusted by the parties receiving them. Such men thought no more of using a knife or pistol in a personal

encounter than men now think of using their fists. As a lawyer Terry knew that Hopkins had no lawful authority to arrest Maloney, and as a man he knew that he was himself in no small degree responsible for the state of things that had placed him in danger of arrest. He naturally felt bound to defend him, and in doing so placed himself in line of attack.

While it is certain that no violent attack upon him was intended, we cannot be certain that none was made. Hopkins was by no means a discreet or judicious officer; and the committee, or at least its more conscientious members evidently felt that all he had done could neither be defended nor excused. They could not blame Terry for resisting, though willing enough to condemn the means he had used. For his offense the only penalty they could inflict was their censure, and impartial history must approve their verdict and applaud their moderation.

CHAPTER III.

BRODERICK

POLITICAL parties took no official notice of the vigilance committee or its work. They could not approve, for one of them had been ousted from control of city affairs in San Francisco as one result of it, and the other had not been in any way benefited. There were politicians who denounced it and would have been glad to have their party express its disapproval, but only two attempts were made to secure such expression, and these met overwhelming opposition. A delegate to the Know Nothing convention held in September, sent to the secretary's desk a resolution condemning the acts and doctrines of the committee as "destructive of the prosperity of the state and dangerous to the rights and liberties of her citizens"; but as soon as the purport of it became known, it was greeted with a storm of hisses, and the reading of it was never finished. A resolution of much milder form was proposed in the democratic convention, but no action was taken on it. Both a presidential and a senatorial election was pending that year, and neither party cared to jeopardize its success by experimenting with new issues.

Broderick and Gwin were chosen senators by the legislature elected that year, and within a few days after their election both left for the east by the Panama steamer. Gwin went direct to Washington where he arrived before congress adjourned on March 4th, and resumed his seat in the senate which had been vacant for two years. Broderick went direct to New York, where he was given a royal welcome by the friends whom he had told eight years before that he would never return until he could come as a United States

senator. From New York he went to Washington in time to witness the inauguration of President Buchanan and attend the special session of the senate that is usually held after a new president is inaugurated. In Washington he was shown even more flattering attention than he had received in New York. The fact that he had been elected for a full term by the same legislature that had chosen one who had already seen service in the senate to an unexpired term, was evidence to the experienced politicians who composed the senate, that he was the abler manager, or more popular man in his state, and perhaps both; and he was therefore greeted as one whose honors had been well won and would most likely be long worn. Some report as to his attitude on the slavery question had also preceded him, and this caused him to be regarded with interest; for the slavery question, reopened by the Kansas-Nebraska bill in 1854, was once more a burning issue, and was discussed in and out of congress with ever increasing passion and bitterness.

Kansas was a battle ground. As soon as it was settled that the people in it should decide, when they came to form a state constitution, whether it should be slave or free, colonization societies were formed in the New England and other eastern states, to encourage the emigration to it of home seekers who would vote for freedom. The southern states sent slaveholders with their slaves, while troops of voters crossed the border from Missouri on election days to vote for slavery and then return to their own state again. Collisions between the free and slave state men in it were becoming frequent. Many murders had been

committed, several open battles had been fought in which people had been killed on both sides, homes had been burned, the town of Lawrence had been sacked, and both parties were arming the emigrants they helped to go thither in anticipation of future trouble.* In the preceding May Preston S. Brooks, a member of the lower house from South Carolina, had attacked Senator Sumner at his desk in the senate chamber, and beaten him into insensibility with a heavy cane. Threats of disunion were frequently made in and out of congress, and open war seemed not improbable. Among such conditions the advocates of freedom naturally regarded the new senator, whose election was known to have been opposed by the ultra southern element in his state, with a lively and expectant interest; the southern senators already knew that they had nothing to hope from him beyond what could be forced by party discipline.

But the new senator was not long to retain the power and popular favor he seemed to have won. When he left California he had believed himself to be in position to dominate his party in the state as long as he might care to do so, because in that midnight meeting at the Magnolia hotel in Sacramento, Gwin had abjectly surrendered to him all the influence he would be entitled to have as a senator in the distribution of the federal patronage. This surrender he had put in writing, though that writing had not been made public, nor

*To one of the colonist parties organized at New Haven, Connecticut, Reverend Henry Ward Beecher sent a present of twenty-five bibles contributed by a member of his church, and in his letter transmitting them remarked that it was a shame that anything but moral instrumentalities should be needed in a free country; but as something else was needed he also sent arms for twenty-five men. From that time forth "Beecher's bibles" was used as a synonym for Sharp's rifles.

was the nature of it further known to any than had been foreshadowed by Gwin in his address to the public on the day of his election. Broderick in fact never intended to make it public, for as a secret document it was likely to have far more binding effect than if published. He indeed denied that any surrender of the kind had been made to him a long time after he found the letter ignored and set at nought; and only made it public a short time before his death, when it was wrung from him by the bitter assaults of his opponents, near the close of an extremely heated campaign.

Broderick discovered the worthlessness of Gwin's pledge when he made his first call on the new president. "It was cold without," he subsequently said, in describing his reception, "but icy within." Buchanan although a Pennsylvanian, was under the absolute domination of southern men. Four of the seven members of his cabinet were from the south, and three of the four controlled the treasury, the interior, and the post office departments, through which most of the patronage of the administration was distributed. The secretary of war was a Virginian, and the secretary of the navy, although a northern man, was a pro-slavery extremist. Only the secretary of state and the attorney general were northern men of character, and these had comparatively few favors to distribute that Broderick's friends were seeking. With the president and his cabinet disposed as they were toward him, Broderick found himself not only not all powerful in his state, but even shorn of the influence that ought to have belonged to him. He must not only disappoint his friends or

suffer them to be disappointed, but must make humiliating explanations that would more than likely be misunderstood. He must make a new battle to maintain his place in the party management, and in time for his own reëlection. He must make it against the great disadvantage of having failed to do what was expected of him, and of having all the resources he had thought to control used against him.

Possibly Gwin had fully intended to keep the pledge he had made to secure his election, and to "turn from patronage and the curse it entails," as he had promised in his address made to the public two days later. The most charitable view of the matter, and probably the correct one, is that the pro-slavery party which surrounded Buchanan had more to do with his failure to keep it than he had. He had returned to Washington sufficiently in advance of Broderick to give ample time for southern senators to discover what his true position in California was. The fact that he had been returned only for the short term, was evidence that he was not first in the hearts of his countrymen. He needed all that his party could give him to enable him to maintain his place; and the federal patronage in California was therefore as important to the pro-slavery party as to Gwin himself. It could not afford to lose the vote of the senator it had from that state. There was urgent need for it at the moment to win Kansas, for which its partisans were already resorting to most desperate measures, and should they lose there they would need both senators from California.

As Broderick was allowed to have no influence in filling the federal offices,* and Gwin pretended to claim none, the appointments were apparently left to the two members of congress, Charles L. Scott and Joseph C. McKibben, neither of whom was friendly to Broderick. With Scott he had nearly come to blows in the room of the committee on credentials during the state convention in 1855, and McKibben though afterwards his friend, had up to that time generally opposed him. Both were at the time Gwin's partisans and the new officers named by them were nearly all southern born and Gwin's staunch supporters. As if by special arrangement these appointments were among the earliest made. It had never before happened that the federal offices in any state had been so promptly changed on the coming of a new administration as they now were in California. Broderick was not only deprived of the power he had supposed to be his alone, but it was turned against him and immediately set to work to destroy him.

It is evident that the new administration and the more potent influence that controlled it, had thus early determined to use all the power of party discipline to promote the objects it had in view; and this early and emphatic manifestation was not only designed to bring Broderick into subjection, but to have its effect upon

*It has been represented by several writers that Buchanan did no more than to require that Broderick should put his recommendations of the candidates he wished to have appointed, in writing—something that no president had done before—and that Broderick refused. No proof that this was the case is offered and none is obtainable. I have caused inquiry to be made at the White House and find that no papers pertaining to appointments are on file there of an earlier date than Grant's first administration. There is no reference to Broderick in Buchanan's published papers.

others who might seem disposed to be refractory. It is true that Broderick's independence of spirit was at the time only generally known, but Gwin's subserviency had been proven. The loyal partisan had been kept out of his seat for two years by the more skillful management of the man who was now his colleague whose temper had not been tested, and the occasion was a favorable one for showing what all might expect who ventured to disobey.

Some months later another and older senator was subjected to similar treatment. Just before the regular session of congress opened in December Senator Douglas of Illinois was at the White House, and during a talk with the president about his forthcoming message, ventured to remonstrate against the view to be therein expressed about the condition of things in Kansas. The discussion grew warm, and finally the senator told the president that if he persisted in that view he should take issue with him, whereupon Buchanan is reported to have warned him that "no democrat had ever yet differed from an administration of his own choice without being crushed"; and had concluded by reminding him of the fate of Tallmadge and Rives who had dared to oppose President Jackson. To this Douglas had indignantly replied that General Jackson was dead, and left the room. He was not intimidated by the president's threat, as is well known, and made the issue as promised; but in the following year when he was making the great contest for his seat with Lincoln, the administration forces were all opposing him, even going so far as to nominate an opposition ticket. The fight against Broderick and that against Douglas were only

parts of a greater battle; they were made by similar means for the same end, and were directed by the same political managers, among whom Buchanan was one of the least influential.

Broderick returned to the coast upon the adjournment of the special session, to make such explanations as he could to his disappointed supporters, and take part in the nomination and election of a new state administration. The southern senators appear to have expected that he would begin war upon the president at once, and perhaps divide the party in California. There were two factions in it already, and had been for a long time, known as the "Chivalry" or southern, and the northern or "Tammany" faction, so called because of the methods which Broderick had learned in New York and made use of in San Francisco as well as in his state campaigns, and their efforts to control had steadily grown in activity and bitterness. Broderick still had a respectable following, notwithstanding his failure to reward his friends as he had expected, but he wisely refrained from making an issue of his own and their disappointments. He even made no special effort to control the convention which was held in July, though he favored the nomination of J. W. McCorkle for governor. But McCorkle was beaten by John B. Weller by a vote of 251 to 61. Only one friend of Broderick's gained a place on the ticket—Stephen J. Field for justice of the supreme court. As the Know Nothing party was by this time rapidly disintegrating, and the new republican party not yet formidable, Weller and his whole ticket were easily elected.

By the time congress reassembled in December, 1857, the troubles in Kansas had become more alarming than ever. Governor Geary* had hoped during the summer of 1856 that he would soon be able to pacify the warring parties, but troubles had broken out afresh and he had resigned. A new governor was not more successful than he had been. The free state men had held a convention at Topeka, in which the pro-slavery men had refused to participate, and had formed a constitution which President Pierce, in a special message had denounced as illegal. A pro-slavery convention, in the election of which the free state men had refused to participate, had met at Lecompton and in the surprisingly short space of three weeks had formed a pro-slavery constitution under which Kansas was now asking admission to the Union. This constitution had not been submitted to the people to determine whether they would accept or reject it. They had been permitted to vote only on that part of it pertaining to slavery, and on that they could vote only "for the constitution with slavery" or "for the constitution without slavery." The form of ballot prescribed prevented any from voting against the constitution and the free state men had refused to vote at all. The result, as reported by the pro-slavery party, showed sixty-one hundred and forty-three votes for the constitution with slavery, and many of the votes returned were afterwards shown to be fraudulent. Such a violent protest was made against this return that

*John W. Geary who had been the first mayor of San Francisco. California furnished two territorial governors for Kansas—Geary in 1856 and John W. Denver in 1859.

a new election was called, at which the issue was the adoption or rejection of the constitution as a whole, and it was rejected by ten thousand two hundred and twenty-six to one hundred and thirty-eight, the pro-slavery men or most of them not voting.

In spite of the doubtful origin of the instrument, and the still more dubious means by which a seeming approval of it was to be secured, Buchanan spoke favorably of it in his annual message sent to congress nearly three weeks before the first vote was taken. In his view the convention was not bound to submit the whole constitution for approval; it was a sufficient compliance with the organic act, in which what he called "the great doctrine of popular sovereignty, which is the vital principle of our free institutions" had been first formally declared, to submit the question of slavery only. This had been done, and although the result had not then been ascertained he hoped that whatever it might be, congress might approve what was done and so end the controversy.

As soon as the message was read Douglas moved that the usual number of copies be printed, and in doing so gave notice that he entirely dissented from that part of it which might be fairly construed as approving the proceedings of the Lecompton convention. The fight was now on, and in it Douglas was not to be sustained by many members of his own party. Senator Stuart of Michigan held similar views, and on December 23d Broderick, who had thus far taken only a modest part in the proceedings of the senate, made a short speech in which he clearly indicated that he, too,

dared to oppose the administration. Buchanan had been his choice, he said, before the convention met to nominate him, and no senator had done more than he, in his way, to secure his election. He regretted that he was now compelled to oppose him, but he believed him and his cabinet to be alone responsible for the condition of things in Kansas. "I do not intend," he said, "because I am a member of the democratic party, to permit the president of the United States, who was elected by that party, to create civil war in the United States. The only thing that has astonished me in this whole matter is the forbearance of the people of Kansas. If they had taken the delegates to the Lecompton convention and flogged them, or cut their ears off and driven them out of the country, I would have applauded the act."

By February 2d a certified copy of the Lecompton constitution had reached Washington, together with the results of the two ballotings the people had held on it; and Buchanan submitted them to congress in a special message. In it he argued at length that the free state people of Kansas were in a state of practical rebellion against the government that had been provided for them; that while they had formed a state constitution they had done it by illegal methods; that the Lecompton constitution had been formed by a legally constituted body, and that the submission of the slavery clause of it only to popular vote was in fact a compliance with the organic act, which had interpreted itself so far as to declare that its true intent and meaning was "not to legislate slavery into any state or territory, nor to exclude it therefrom, but to leave

the people thereof perfectly free to regulate their domestic institutions in their own way, subject only to the constitution of the United States."

Now began one of the memorable contests in the history of the senate. The president's contention was stoutly supported by all the senators from the south and their northern adherents like Gwin and a few others; while Douglas, Stuart, and Broderick, and all the anti-slavery senators, chief among whom were Seward of New York, Chase and Wade of Ohio, Trumbull of Illinois, Fessenden of Maine, Wilson of Massachusetts, and Cameron of Pennsylvania, opposed.

Broderick's principal speech was made on March 22d. It was not as long as those made by some of the older senators, and yet it was of respectable length. He made no attempt to present the constitutional or legal phases of the matter, about which others had contended at great length, but viewed it wholly from the standpoint of one who had sprung from the ranks of free northern laborers. Briefly sketching the earlier battles and compromises on the slavery question, he declared that the Missouri Compromise in 1820, had been carried by southern votes; the few northern men who had supported it were consigned to oblivion immediately after they had returned home. But the north had finally been reconciled to it and for twenty-five years peace had reigned. Then came the annexation of Texas, followed by the acquisition of California, the admission of that state in 1850, and then the Kansas-Nebraska act of 1854. He thought republicans ought to rejoice because of that act, as without it there would be no republican party. By repealing the Missouri Compro-

mise it had opened all the territories, including that which had been irrevocably devoted to slavery by that compromise, to a contest between free and slave labor. From the moment that act became law, slavery and freedom had confronted each other in all the territories. The north had felt that a great wrong had been done, but this was a mistake. The north should have rejoiced and the south murmured, for the rampart that had protected slavery in the region south of the compromise line had been broken down. Northern ideas and northern institutions were then invited to a contest for all the territories. "How foolish for the south to hope to contend with success in such a contest. Slavery is old, decrepit, and consumptive; freedom is young, strong, and vigorous. The one is naturally stationary and loves ease; the other is migratory and enterprising. There are six millions of people interested in the extension of slavery. There are twenty millions of free men to contend for these territories out of which to carve themselves homes where labor is honorable. * * * Has it ever occurred to southern gentlemen that millions of laboring freemen are born every year, who demand subsistence and will have it? That as the marts of labor become crowded they will crowd into the territories and take possession of them?"

A few days earlier Senator Hammond of South Carolina, in contrasting the advantage of free and slave labor, had referred to the free laborers of the north as "white slaves and the mudsills of society," and to this Broderick felt called upon to reply. "The senator from South Carolina very boastingly told us how much cotton the south exported, and that cotton was king.

He did not tell us that the price of cotton fluctuated, and that the south was at the mercy of the manufacturers. Suppose, sir, the sixteen free states of the Union should see fit to enact a high protective tariff, for the purpose of giving employment to free labor, would cotton be king then? Why, sir, the single state of California exports the product for which cotton is raised to the amount of more than one-half the value of the whole exports of cotton of the slave states. Cotton king! No, sir. Gold is king. I represent a state, sir, where labor is honorable; where the judge has left his bench, the lawyer and doctor their offices, and the clergyman his pulpit for the purpose of delving in the earth; where no station is so high and no position so great that its occupant is not proud to boast that he has labored with his own hands. There is no state in the Union, no place on earth, where labor is so honored and so well rewarded; no time and place since the Almighty doomed the sons of Adam to toil, where the curse, if it be a curse, rests so lightly as now on the people of California.

"I suppose the senator from South Carolina," he continued, "did not intend to be personal in his remarks to any of his peers upon the floor. If I had thought so I would have noticed them at the time. I am, sir, with one exception, the youngest in years of the senators upon this floor. It is not long since I served an apprenticeship of five years at one of the most laborious trades pursued by man, a trade that from its nature devotes its follower to thought, but debars him from conversation. I would not have alluded to this if it were not for the remarks of the senator from South Carolina,

and that thousands who know that I am the son of an artisan and have been a mechanic would feel disappointed in me if I did not reply to him. I am not proud of this. I am sorry it is true. I would that I could have enjoyed the pleasures of life in my boyhood days, but they were denied to me. I say this with pain. I have not the admiration for the men of that class from whence I sprang that might be expected; they submit too tamely to oppression, and are too prone to neglect their rights and duties as citizens. But, sir, the class of society to whose toil I was born, under our form of government, will control the destinies of this nation. If I were inclined to forget my connection with them, or to deny that I sprang from them, this chamber would not be the place in which I could do either. While I hold a seat here, I have but to look at the beautiful capitals adorning the pilasters that support the roof to be reminded of my father's talent and handiwork."

The administration, he said, had seen proper to make the acceptance of the Lecompton constitution a party test, and its organs* had sought to read out of the party all the democrats who had the boldness to denounce the frauds by which it was created. "Among the men thus sought to be ostracized were the great captains and generals who so gallantly fought during the last presidential contest, and without whose exertions this very administration would have no existence." Let the administration take heed that the party did not

*This referred to the Washington "Union" which was the accepted organ of the administration, and had bitterly denounced Douglas and all other democrats who had refused to accept Buchanan's dictation.

read it out. He denied the right of the administration to make party tests—that power rested only with the democratic masses. The doctrines of self appointed party leaders should not be the test of his democracy.

He would not, he said, coerce the people of Kansas to accept a government they abhorred. He had no fear that they would permit this constitution to be enforced. If they did permit it they would deserve to be subjected to the most abject slavery. In his former speech he had said that the president should be held responsible for the difficulties in Kansas. This remark had been considered startling and been made the subject of much censure; but recent developments had confirmed him in that opinion. Four-fifths of the people of Kansas were opposed to the Lecompton constitution. Every election in the territory looking to this constitution as a result was founded in fraud. The fact was known to the president, and, said he, "I hope in mercy, sir, to the boasted intelligence of this age, the historian when writing the history of these times, will ascribe the attempt of the executive to force this constitution upon an unwilling people to the fading intellect, the petulent passion, and the trembling dotage of an old man on the verge of the grave."*

This was the longest speech Broderick made in the senate. His detractors have attempted to make it appear that it was written for him by some friend, probably George Wilkes, but there is no internal evidence that this is so. From the first Broderick bore his part in the deliberations of the senate, with confidence and generally with credit. He was a good

*Appendix to the *Congressional Globe*, 1st sess. 35th cong., *p. 191-3*.

parliamentarian and frequently took part in the running debates. He spoke on the Pacific railroad bill, in favor of the central and against the extreme southern route which Gwin favored, and to which the southern senators would alone consent. During the second session he urged that the overland mail for California be transferred from the long southern route by which it was then carried, to the Salt Lake route, and that an additional contract be made to carry it between Salt Lake and San Francisco. In returning east during the summer of 1858, he had gone overland via Salt Lake and declared that the contractors, if left to decide the matter, would carry it by that line; it would also give a large majority of Californians their mail several days earlier than they were receiving it. He also, and perhaps with some satisfaction, suggested that the salaries of the principal federal office holders should be reduced, saying that they had been fixed when the cost of living was very high on the coast, and that reason no longer existed. He also denounced an attempt to sell Lime Point to the government for $200,000 saying it would not sell under the hammer for $7,000. The attempt had apparently been engineered by Gwin, through the district attorney at San Francisco, but when called upon he could not tell whether the area to be purchased was 23,000 acres or 2,300. Broderick declared it made little difference. The government did not require either amount for the fortifications it was to build there, and 23,000 acres in that region was worth but little if anything more than 2,300 were. In reply Gwin submitted a letter from the district attorney saying that the owner would only sell the whole or none.

Though never speaking at great length Broderick always spoke forcefully and to the point. If questioned as he frequently was, and as others were, he replied readily and decorously, though in the tense conditions that then prevailed this was sometimes difficult. Judged by the speeches themselves there is no more reason to believe that the longer was prepared for him than that the others were, which would have been impossible.

Weller, the new governor, was of course not friendly to Broderick who had succeeded to the place he had held in the senate and was very anxious to retain. That he could have retained it was not possible since Broderick had been the strongest of all the candidates, and had chosen to take that seat himself; but he might have been elected for the four year term in place of Gwin, had Judge Heydenfeldt his manager, accepted the proposition made to him by Broderick before the balloting began, to give him votes enough to secure that place for him in return for only two votes for himself for the full term. The judge is said to have reported to him that the proposition had been made, and explained why he had declined it; but the explanation was not satisfactory and a coolness between judge and governor resulted.* Although born in a northern state Weller had been as staunch a supporter of the slavery party as any southern senator, and was still a champion of the slavery cause in Kansas. The legislature of 1858 was strongly anti-Broderick, and the governor and the chivalry faction in the legislature knew that Broderick felt aggrieved at the treatment he

*O'Meara, *Broderick and Gwin, p. 197.*

had received from Buchanan, and with reason. They knew, too, that his imperious temper would not long submit to such treatment without protest, and that he would be likely to come to an open break with the administration at an early opportunity, most likely on the Kansas question. In order to forestall such action a joint resolution was adopted instructing the senators and requesting the representatives from California to support the policy that Buchanan had recommended in his message.

This resolution was not adopted until March 21st, and consequently did not reach Washington until long after Broderick had made his two speeches—the last on March 22d—against the Lecompton constitution, and voted against it on March 23d. When it did reach the capital it was presented in the senate by Gwin, and as soon as it was read Broderick rose and said: "The resolution introduced by my colleague will have no influence upon my action now, or in future. I am satisfied that four-fifths of the people of California repudiate the Lecompton fraud. I shall respect the wishes of the people, and pay no respect to the resolution passed by a legislature not representing the opinion of the people of California."

Upon the adjournment of congress on June 14th Broderick and Congressman McKibben, who had opposed the administration in the house, returned to California to take part in the unimportant election of 1858 and meet their constituents. They found their party very much divided. So many counties sent contesting delegations to the state convention in August that separate conventions were held, and the

anti-Lecompton party was formed. The canvass was short and the Lecompton faction was successful, its candidates receiving over eight thousand votes more than were cast by the anti-Lecompton and republicans combined.

Broderick returned east by the overland route via Salt Lake, to observe the country, and collect information that would be of value in his advocacy of that route for the transcontinental mails, as well as for the long hoped for Pacific railroad. In the succeeding session he was as attentive to his duties as he had formerly been, being present at every sitting of the senate or meeting of a committee. The fight over Kansas grew more and more bitter. The republican party was rapidly growing stronger in the north, while the whole strength of the south was massed in opposition. Threats were daily made in both houses to break up the Union in the event of the election of a republican president. Courteous language was still used in the debates, though it was coldly courteous only, and senators and members often approached dangerously near the line which both knew they could not pass without an open rupture. "There are no relations not indispensable for the conduct of joint business between the north and south in either house," wrote Senator Hammond less than a year later when the situation was not more tense than it had been. "Everybody has a revolver, and the south does not intend again to be surprised into hearing another Lovejoy speech."* On the other hand anti-Lecompton

*Letter of April 22, 1860, to Major M. C. M. Hammond, quoted by McMaster *Vol. VIII, p. 446.*

senators had resolved to express their opinions on the slavery and all other questions in the boldest and most positive language, and if called to account in or out of the senate, to defend themselves and the honor of their states as occasion might demand.* Broderick had been one of these.

When the thirty-fifth congress adjourned in March 1859, the California senators and members prepared to return home to engage in the state campaign of that year. Broderick went by way of New York to pay a parting visit to friends there. Some of these, and others in Washington afterwards remembered that he seemed to be more than usually depressed. To some of the latter, when discussing plans for the session of the following winter, he had used the expression, "If I should live to return, and not resign meantime," which had caused no remark though it sounded strangely, used as it was by a man of thirty-nine and in excellent health. His last words to friends in New York were: "You will see me no more."

This was not merely the expression of a gloomy foreboding. The campaign which would open as soon as he arrived in California would be an exceedingly bitter one; the course he had himself resolved to take would help to make it so, and he knew that others would not be less aggressive than himself. The administration party, led by Gwin and supported by Weller,

*"I shall express my opinions touching her (Vermont's) interests upon all proper occasions in such language as I deem consistent with the dignity and position of a senator. If assaulted or insulted for such expression I shall undertake to defend the honor of Vermont." Senator Solomon Foote quoted by Chittenden, *Recollections of Abraham Lincoln, p. 21.* Twenty-five years after Broderick's death there were still members of the senate and house in Washington, who would tell upon occasion how nearly Broderick was allied at this time, with men like Foote, Wade, and Chandler.

Latham, and the entire force of federal and state office holders would be opposed to him, would discredit him in every way, and if possible drive him out of public life. McKibben, now his friend and follower, would seek vindication by reëlection, and his fight would be the fight of both. His party was divided and his faction apparently the weaker. It was still unorganized in many of the counties, while the opposition would benefit by the organization he had himself built up. The election would be held early in September and the time for preparation was short. The battle, when it opened would not be limited by the conventional lines that had been so carefully observed in Washington. It was more than probable that the fighting would not be confined to the mere exchange of verbal accusations and denunciations, nor ended when the ballots were counted. Dueling was then as common in California as in the south, although the constitution forbade it and a statute passed in 1850 made it a felony. But neither the constitution nor the statute were much regarded. Some of the most prominent men in the state had fought and some of the most respected had been killed. Edward Gilbert who had been in the constitutional convention, later a member of congress and editor of the "Alta California," had fought J. W. Denver in August, 1852, and had fallen shot through the body. John Nugent, editor of the "Herald," and John Cotter, a member of the city council, had met in the same year, and B. F. Washington, now collector of customs, had exchanged shots with Charles A. Washburn two years later. Gwin and J. W. McCorkle had fought with rifles in San Mateo county, and there had

been many other similar encounters in which men of prominence had engaged. In August of the preceding year William I. Ferguson, a state senator from Sacramento county, and George Pen Johnston, clerk of the United States circuit court at San Francisco, had fought with rifles on Angel island. Both had been wounded at the fourth fire and Ferguson had subsequently died. The two had been firm friends and boon companions up to within two days before the fatal encounter. Both were scholarly men, of lively spirit, widely known, and general favorites with all who had business in the federal courts or at the state capitol. Johnston could repeat much of the best poetry in the language, while Ferguson's scintillating wit, unfailing good humor, and readiness to sing a song or tell a story, had won for him the sobriquet of "Ipse-doodle" and hindered the advancement he would otherwise have had. No two men in the state had seemed so little likely to quarrel as they up to the moment when, in discussing the burning issue of the time, sharp words had been exchanged and the duel followed.

Ferguson, though formerly a Know Nothing, had presided over the anti-Lecomption convention of the preceding year, and was now recognized as one of Broderick's staunchest supporters. After his death his desk at the state capitol had been broken open, and the papers in it disarranged, as if search had been made for something with more than ordinary eagerness. It was suspected that the letter which Gwin had given Broderick at that midnight meeting in the Magnolia hotel was the thing sought for, and that the duel had been deliberately planned in order to make the opportunity for this

search possible. So far only Gwin and Broderick, and the person to whose care the letter might have been entrusted for safe keeping, were supposed to know of its existence; but if this suspicion had any real foundation, it indicated that more blood might be shed in order to get it out of the way.

The death of his friend was undoubtedly in some degree the cause of Broderick's forebodings. It at least suggested that what had not been found in the broken desk would be further sought for, and that other lives might be sacrificed if need be in the search. But if Broderick thought of such things they in no way changed his plans.

He and McKibben did not reach San Francisco until the middle of April, but their friends had begun to prepare for the campaign much earlier. At a meeting held in Sacramento in February they had resolved to set to work at once in every county, particularly in the fourteen in which they as yet had no organization, so that all might certainly be represented in the state convention. At a subsequent meeting they had resolved to have no affiliation with the Lecompton party, but to make the issue squarely between Lecompton and anti-Lecompton, the administration and anti-administration, Broderick and anti-Broderick. All this was doubtless done at the suggestion of Broderick and McKibben, who, living as they had been for months in the atmosphere of Washington, realized that the Kansas question must overshadow all others until finally settled.

McKibben opened his campaign early in May with a speech at San Francisco in which he defended his

course in opposing the administration. Other anti-Lecompton meetings were held in the principal towns of the interior, all of which were well attended and the speakers liberally applauded. At the spring elections the anti-Lecompton city tickets were elected at Stockton, Marysville, Nevada, and Santa Cruz, which gave members of that faction much reason to hope for success in September.

Gwin and his sympathizers were not idle. The federal officials had been at work almost from the hour of their appointment. They were nearly all his friends, and their subordinates held their places by virtue of birth and loyalty to the national administration. The custom house was more than ever a "Virginia poor house," and most of the other offices as well deserved the sobriquet. Even Frank Tilford, the naval officer, once Broderick's confidant and most intimate political friend, was now classed with the chivalry. He had hoped to be collector of customs, and though he had depended chiefly on Latham to secure the place for him, had not held Broderick wholly blameless for his failure to get it. The appraiser, the marshal, district attorney, postmaster, Indian agent, surveyor general, and a considerable number of contractors on government works, were all southern born or southern sympathizers. Governor Weller, anxious to be re-elected and still smarting over his defeat for the senate, with the usual list of state officials, all were with the Lecompton party, as were most of the members of the legislature, who in the preceding January had

passed a joint resolution severely censuring Broderick for not obeying the instruction voted by its predecessor in 1858.*

One of his contemporaries, an eminent member of the bar of San Francisco, has said of Broderick at this time: "A less brave or less conscientious politician would have evaded the struggle * * * in which he could hardly have hoped to succeed. Not so with Broderick. He not only renounced the cherished pleasure of his life, but accepted the alternative, although he clearly saw defeat in the issue, and death in the vanishing point of the vista. * * * Against all the weapons that would surely seek his life, he could not even hope to stand; it was even almost hoping against hope to expect that he could defer the personal sacrifices until after the political contest had been terminated."†

A shallower politician, or one who looked only to present success, would have sought a combination with the republicans at the beginning. That party could then hardly claim to have an organization in California, and certainly had no hope for success. It would make the pending campaign on the anti-Lecompton issue, and many of its members as well as many of the anti-Lecompton party were in favor of combining. Horace Greeley, then the most influential journalist in the country, visited the state in August and recommended it, just as he had earlier urged the republicans of Illinois to support Douglas instead of Lincoln in the

*This resolution was expunged from the record by the legislature of 1861.

†Funeral oration in New York by John W. Dwinelle, quoted by Bancroft, *History of California, Vol. VI, p. 736.*

great senatorial campaign then pending in that state. But Greeley was not an astute politician, and his advice was unheeded in both states. Neither party was ready for such a union; the ablest men in both opposed it. The republicans stood as they had stood since the Wilmot proviso was first offered in congress, opposed to the admission of slaves into any of the territories. The Douglas party in Illinois and the Broderick party in California clung to the doctrine of the Kansas-Nebraska act, that the people of the territories should be left to decide the slavery and all other domestic questions for themselves when they came to form state constitutions. The difference was vital and could only be overcome, or overlooked, when a graver issue should, as it soon did, force it aside.

The republicans held their convention June 8th, about one hundred and fifty delegates attending. Some disposition to unite with the anti-Lecompton party was manifested in it. Edward D. Baker favored it, though Frank M. Pixley opposed and defeated it. Both were candidates for governor, together with Leland Stanford, D. R. Ashley, T. G. Phelps and Samuel Bell. Stanford was nominated, Baker and P. H. Sibley being named for congress.

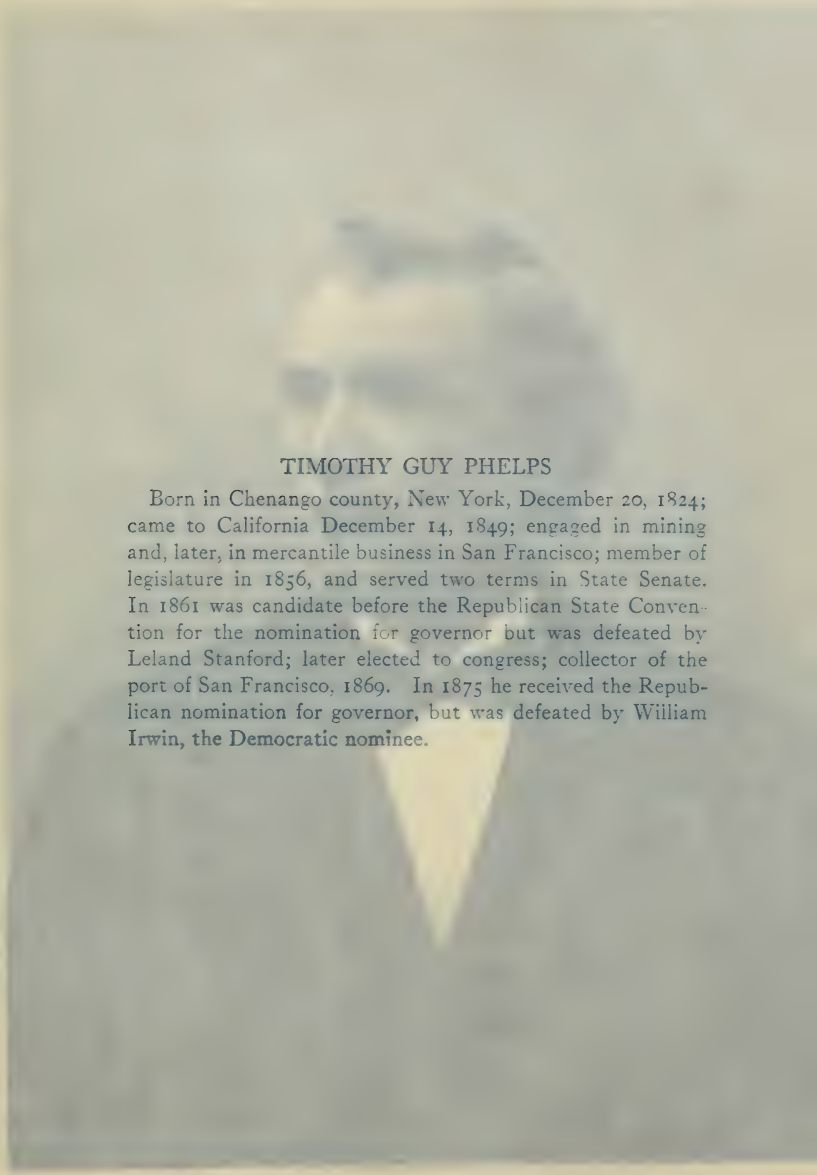
Broderick's partisans, to the number of two hundred and forty and representing all but six of the counties, met June 15th, and named John Currey for governor, John Conness for lieutenant-governor, and Joseph C. McKibben and S. A. Booker for congress. Two of Broderick's oldest and staunchest supporters, Alfred Redington and J. W. McCorkle had sought the nomi-

nation for governor, but both withdrew in order that Currey, who was favored by Broderick might be named.*

The Lecompton convention was held last, and just a week after the anti-Lecompton ticket had been named. It nominated Milton S. Latham for governor over John B. Weller and John Nugent, A. P. Dudley, and J. W. Denver withdrawing. John G. Downey was named for lieutenant-governor, and Charles L. Scott and John C. Burch for congressmen.

The platform of the republicans declared their unalterable opposition to the introduction of slavery into territories, and denounced the disposition of congress to force it into regions where it did not exist, as an "alarming evidence of the advance in the demands of the slave power." That of the anti-Lecompton party reaffirmed its adherence to the platform on which Buchanan had been nominated; declared that the people in the territories should be allowed to legislate or omit to legislate upon the subject of slavery as well as all other matters; denounced the Buchanan administration for "its outrages upon the people of Kansas"; its "unrelenting proscription of tried and worthy democrats; its constant violation of the pledges which brought it into life, and its attempts to render the legislative subject to the executive department." The declaration of the Lecompton party was cleverly planned to secure the votes of all who might be persuaded to judge it by what it said rather than by what

*Currey had been the candidate for judge of the supreme court on both the republican and anti-Lecompton tickets in 1858, and Broderick favored his nomination, hoping that the republicans might in the end vote for him in preference to their own candidate.



TIMOTHY GUY PHELPS

Born in Chenango county, New York, December 20, 1824; came to California December 14, 1849; engaged in mining and, later, in mercantile business in San Francisco; member of legislature in 1856, and served two terms in State Senate. In 1861 was candidate before the Republican State Convention for the nomination for governor but was defeated by Leland Stanford; later elected to congress; collector of the port of San Francisco, 1869. In 1875 he received the Republican nomination for governor, but was defeated by William Irwin, the Democratic nominee.

Milton S. Latham for governor
John G. Downey was
and Charles L. Scott



T. S. Phelps

it did. It approved "the vigor and efficiency" of the national administration "in adjusting difficulties with Great Britain," "in the prompt and successful redress of wrongs inflicted on us by the government of Paraguay," "in the decisive suppression of the rebellion in Utah," and in various other matters, but no mention was made of its policy with regard to Kansas. A general resolution on that subject declared that territories while "not endowed with all the attributes of sovereignty," were yet "justly entitled to the rights of self government and the undisturbed regulation of their domestic and local affairs, subject to the constitution of the United States; that any attempt by congress, or any of the states, to establish or maintain, prohibit or abolish, the relation of master and slave in a territory, would be a departure from the original doctrines of our American institutions; and that we adhere immovably to the principle of non-intervention by congress with slavery in the states and territories, as declared in the Kansas-Nebraska bill, and openly disclaim fellowship with those, whether at the south, the north, or the west, who counsel abandonment, limitation, or avoidance of that principle." There was not a word or line in the resolution that would not have been unanimously endorsed by the whole anti-Lecompton party including Douglas himself.

The impression that the republican and the anti-Lecompton parties would yet coalesce remained, even after the conventions were held, and grew stronger as the campaign advanced. Sibley, one of the republican nominees for congress withdrew in favor of Baker and McKibben, and Booker one of the anti-Lecompton

nominees also retired. The republican candidates for state printer and school superintendent also withdrew. A strong appeal to Stanford to retire in favor of Currey was also made, but he declined to yield.

Soon after the convention adjourned the brilliant Baker threw himself into the canvass with his accustomed vigor, and other republican speakers joined him. Gwin also began a tour of the state, as the leading champion of the Lecompton doctrine. Currey challenged Latham to a series of joint debates to be held in the principal towns, and the challenge was accepted. This added interest to the campaign, which had already promised to be interesting enough, but nothing like that which was awakened when it was announced that Broderick himself would enter the lists. Notwithstanding the fact that he had acquitted himself with credit in the senate there were many, perhaps a majority of people in California, who did not believe him capable of discussing matters of importance intelligibly in public. He had been regarded as a mere manipulator in politics—a successful one, it was admitted—but nothing more. It had been reported and generally believed that his speeches in the senate had been written for him by his friend George Wilkes, and his enemies hoped, while his friends feared, that he would make a pitiable failure. Many knew of his passionate temper; they knew also about his grievances, and a display of passionate impatience that could do his cause no good and might possibly bring it into contempt, was anticipated by many.

But Broderick was to show, as he had already shown in the senate, that an earnest man with a message to

deliver may speak not only forcefully but perspicuously. No one doubted that he would speak courageously, and people crowded to hear him wherever he was to speak.

Before he began his canvass an incident occurred that might have warned him of what was to follow, even if there had been no foreboding of it. Judge David S. Terry had sought renomination by the Lecompton convention for judge of the supreme court, but had been defeated. He, however, addressed the convention and in his speech referred to the anti-Lecompton party as "a miserable remnant of a faction, sailing under false colors, trying to obtain votes under false pretenses. * * * They are the personal followers of one man, the personal chattels of a single individual whom they are ashamed of. They belong heart and soul, body and breeches, to David C. Broderick. They are yet ashamed to acknowledge their master, and are calling themselves, forsooth, Douglas democrats. * * * Perhaps they do sail under the flag of Douglas, but it is the banner of the black Douglas whose name is Frederick not Stephen."

The speech irritated Broderick, who had sought to befriend Terry when he was held prisoner by the vigilance committee, and, so far as he knew, had given him no cause to attack him. Soon after reading it he was at breakfast in the International hotel in San Francisco, and said to his friend, A. A. Selover, who with his wife and another lady were at the same table, that "the miserable wretch, after being kicked out of the convention" had made a speech abusing him. "I have hitherto spoken of him as an honest man," he said,

"as the only honest man on the bench of a miserably corrupt court, but I now find I was mistaken. I take it all back. He is just as bad as the others."

Also at the same table, or within hearing, was D. W. Perley, a lawyer, then of or recently from Stockton, who was Terry's friend. He asked Broderick whom he referred to as a wretch and Broderick replied: "Terry." "I will inform the judge of the language you have used concerning him," said Perley. "Do so," retorted Broderick, "I wish you to do so. I am responsible for it." To this Perley replied that he would not dare to use such language in the judge's presence, or something to the same effect, which Broderick answered only with a sneering "would not dare?" This Perley resented by saying hotly, "No, you would not dare. You know you would not dare do it; and you shall not use it to me concerning him. I shall hold you personally responsible for the language of insult and menace you have used."*

This incident occurred on the morning of June 26th, only a day or two after the Lecompton convention had adjourned. On the 27th Perley challenged Broderick, and on the 29th Broderick declined on the ground that Perley had only a few days previously made oath that he was a subject of Great Britain, and his political rights could not be affected by sending or accepting a challenge. "If compelled to accept a challenge," his reply continued, "it could only be with a gentleman holding a position equally elevated and responsible; and there are no circumstances which could induce me to do this during the pendency of the present campaign.

*O'Meara, *Broderick and Gwin, p. 220.*

* * * If I were to accept your challenge, there are probably many other gentlemen who would seek similar opportunities for hostile meetings, for the purpose of accomplishing a political object, or to obtain public notoriety. I cannot afford, at the present time, to descend to a violation of the constitution and the state laws to subserve either their or your purposes."

Broderick could afford to decline this meeting without danger of any imputation of cowardice, since his courage had proven in his duel with Smith in 1852, in which his life had been saved by his watch. In declining he could take opportunity, as he did, to serve notice that he would accept no other challenges until the campaign was over, while at the same time leaving it to be understood that he would not neglect matters of that kind when that time should arrive.

In his earlier speeches Broderick appears to have confined himself largely to the issues of the campaign in which the people were the most deeply interested—the Kansas question—and the attitude of the administration and the various parties toward it. Personalities were avoided, or at least if they were not they were so mild in kind as to cause little comment; but as the campaign advanced more and more vehement language was used. While Broderick and Gwin had both been elected as democrats they were now political opponents, each at the head of his party in the state, and naturally each was the chief object of attack by the other. In his second speech Gwin assailed his rival in no measured language. Broderick ridiculed Gwin's long written speeches, which, he said he generally read to empty benches in the senate, only himself

and one other senator remaining to listen. He charged him with being more concerned for the interests of the south than for those of California in his boasted championship of the Pacific Railroad bill, because he persistently adhered to the southern in preference to the central and more direct route. For the same reason he had caused the mails to be sent by the southern stage line, although admitting that they might be sent more quickly and more cheaply by way of Salt Lake. He held him responsible for what he ultimately came to refer to as the "Lime Point Swindle," and for securing unduly large appropriations for the Pacific Mail Company's contract with the post office department. Some part of the history of the senatorial contest in which both Gwin and himself had been elected was told, but the most interesting thing about it, the story of the midnight meeting in the Magnolia hotel, was studiously and for a considerable time withheld.

Gwin on his part reproached Broderick for not obeying the instructions of the legislature in regard to Kansas, declaring that he had been very properly read out of his party in consequence. He early resorted to ridicule, sneering contemptuously at Broderick's attacks, and at his conduct in the Perley matter. He appears to have assumed from the denial Broderick had earlier made of any arrangement with him in regard to the distribution of patronage, that he would not venture to make public the letter he had given him, and so grew bolder and more and more irritating in every speech.

Broderick, too, began to throw prudence to the winds. At Sacramento on August 9th he was met at the levee

by an immense crowd, composed mostly of his friends, and in the evening faced one of the largest audiences that until then had ever assembled in that city. He began his speech by saying: "I come tonight to arraign before you two great criminals—Milton S. Latham and William M. Gwin"—and then proceeded to enumerate the crimes of each. These were not of an infamous kind, but pertained to their political bargaining with himself and others, to secure the four year term in the senate which Gwin had finally gained. To prove his charges he read letters from various parties concerned, but made no reference as yet to the Gwin letter.

From this time forward until the campaign ended on September 7th, the charges and counter charges became more and more vindictive and vehement. Broderick traveled through the northern counties, speaking in most of the larger towns. He frequently referred to Gwin as "dripping with corruption"; Gwin retorting in kind. Finally at Santa Rosa Broderick told the whole story of Gwin's midnight visit to his room at Sacramento, concealed no part of his own share in the miserable business, and explaining why he had hitherto sought to conceal it. "I had then," he said, "my commission as United States senator in my pocket, when old Gwin came begging at my feet for favor and help. I remembered all that he had said and done against me; and before I would have refrained from any opportunity to humiliate him, I would have torn my credentials into pieces and thrown them into the fire."

Then he produced the letter* which Gwin had given him, and which he said he believed had led to the death of W. I. Ferguson. Having read it he continued: "Do you believe it was for nothing that Ferguson's desk in the senate chamber was broken open immediately after his death? On his deathbed Ferguson told General Estill where he could find the letter. A curse has followed that letter, and I now give it to the public that the curse may return to its author, that its disgrace and shame may burn the brand upon his forehead even as plainly as the scarlet letter burned upon the breast of Hester Prynne! Let Dr. Gwin or any of his set deny its authority and I will prove that he wrote it, letter for letter, column for column."

From that day forth this document, famous in the history of the politics of California was always spoken of as "the scarlet letter."

To this Gwin replied at Yreka: "Broderick's remarks about the senatorial election are a tissue of falsehoods from beginning to end. The main portion of his state-

* Sacramento City, January 11th, 1857.

Hon. D. C. Broderick: Dear Sir: I am likely to be the victim of the unparalleled treachery of those who have been placed in power by my aid and exertion. The most potential portion of the Federal patronage is in the hands of those who, by every principle that should govern men of honor, should be my supporters instead of enemies, and it is being used for my destruction. My participation in the distribution of this patronage has been the source of numberless slanders upon me, that have fostered a prejudice in the public mind against me, and have created enmities that have been destructive to my happiness and peace of mind for years. It has entailed untold evils upon me, and while in the senate I will not recommend a single individual to appointment to office in the state. Provided I am elected, you shall have the exclusive control of this patronage, so far as I am concerned; and in its distribution I shall ask that it may be used with magnanimity, and not for the advantage of those who have been our mutual enemies, and unwearied in their exertions to destroy us. This determination is unalterable; and in making this declaration I do not expect you to support me for that reason, or in any way to be governed by it; but as I have been betrayed by those who should have been my friends, I am in a measure powerless myself and depend upon your magnanimity.

Very respectfully your obedient servant,

Wm. M. Gwin.

ment about Latham is false. Latham was a victim of Broderick's villainy in that contest. Under garb of friendship, he concerted a conspiracy against me that is without a parallel in this or any other state. He deceived me, and then tried to ruin me; but I turned upon him and his minions, and I will pursue them as long as I live. I acknowledge with shame, that for a time I was deceived by him, and I am willing to atone with sack cloth and ashes. * * * He challenged me to this discussion. We will see if he will challenge me again to meet him, after what I have said tonight."

The election resulted in the overwhelming defeat of the anti-Lecompton and republican tickets, Latham being elected by 62,255 votes over 31,298 for Currey and 10,110 for Stanford.

That Broderick expected to be called to account by one or more of those who had opposed him in the campaign is clearly indicated in many ways—by the letter to Perley, by statements in several of his speeches, and by the last words uttered in his dying hour. He had been continually warned by friends as well as by the newspapers which approved or opposed his course. "We speak the convictions which have been forced upon the minds of all men who have read the speeches of Broderick and Gwin," said a friendly journal, "that a bloody termination of this controversy is expected by the friends of both senators, and that it is one for which both are prepared. Commencing with Gwin's second speech in the canvass, there has been a pointed avowal of his readiness to settle their private griefs in a private manner, coupled with sneers, insults, and personal affronts on every occasion on which the elder

senator has alluded particularly to his younger rival. The organs on that side do not disguise the wish to force Broderick into a private encounter. We have had dissertations on the code, on the characteristics of chivalry, on what constitutes an affront, on how far personal responsibilities may or may not be evaded. These imputations upon the personal courage and honor of Broderick have been carried on since the Perley affair, and seem fully to corroborate his view of that matter, and that it was arranged by his enemies to provoke a hostile collision."*

With the admonitions of friends or the warnings of enemies constantly sounded in his ears, or thrust before his view wherever he turned, it cannot be doubted that Broderick was fully aware of what was in store for him. But he could hardly have expected the first challenge to come from the direction it did. If he had given offense to any, certainly Gwin and Latham, whom he had openly denounced before large audiences, had a right to claim reparation before Terry of whom he had spoken only to the limited company at a breakfast table.

But Terry was first to prefer his claim. On the day after the election he resigned his place on the supreme bench and went to Oakland, where on the same day, he opened the correspondence which ended two days later, with a formal challenge and its acceptance.† The letter, though brief, set forth the language complained of, and by comparing it with that which had provoked it, and the circumstances under which it had been uttered, it is difficult to understand how it could have

*San Francisco "National" quoted by Bancroft, Vol. VI, p. 723.

†For the letters in full, see Appendix this volume.

given offense. Nevertheless, Terry demanded a retraction, or satisfaction, and his second was urgent that one or the other be given at once.

O'Meara, whose book, "Broderick and Gwin," is relied on as giving an authoritative account of this duel, would make it appear that Terry would gladly have assented to any honorable arrangement by which a hostile meeting could have been avoided, and that Broderick and his seconds really forced things to a bloody issue. But O'Meara is too evidently a partisan of Gwin and Terry, and the record does not sustain him. Broderick's language was no more offensive than Terry had himself used, and as Terry had spoken first he was the aggressor. He had fairly provoked the remark he complained of, and could hardly expect that Broderick would let it pass without retort of some kind. It may be true, as O'Meara claims, that A. P. Crittenden, Edmund Randolph, John A. Monroe, John Nugent, and other friends of both parties endeavored to prevail on Broderick to consent to a peaceable settlement, but Terry can hardly have been responsible for their action. He says they were denied admission to Broderick by friends who were keeping him in hiding to prevent arrest; but if so no proof has ever been offered that they were the bearers of a conciliatory message, or any message from Terry. Broderick was not the aggressor, and so far as Terry was concerned had not been at any point in the controversy. He had been challenged and had accepted. He could make no conciliatory offer; such an advance could come only from the opposing party; and it did not come.

The challenge was accepted on Saturday, September 10th, and the meeting arranged for the morning of Monday the 12th. It was to take place on the farm near the Lake house at the upper end of Lake Merced, which is southwest of San Francisco, and not far from the ocean. The weapons were to be dueling pistols, the principals to be placed ten paces apart, facing each other, and to fire between the words "Fire-one-two," neither to fire before the first nor after the last word was pronounced. Each was to be accompanied by two seconds, a surgeon and a person to load the pistols.

Although all these arrangements had been made with the usual secrecy, the principals with their seconds had scarcely reached the place of meeting on Monday morning, when an officer appeared with warrants for their arrest. Later in the day they appeared with counsel before Judge Henry P. Coon. The prosecuting attorney, at whose instance apparently the warrants had been issued, asked that they be required to give bonds to keep the peace; but this the court refused, and arrangements were later made by the seconds, for another meeting on the following morning at the same place and time.

That a duel would occur was now generally known; that it would be a fight to the death everyone expected. The newspapers discussed the probable result without evidence of excitement, but made no suggestion that the meeting should be again interrupted. The public awaited news from the field with anxious interest, but no considerable number of the friends or enemies of the parties, or even of the merely curious, interfered

with what was to be done. About eighty persons in all, including the drivers of carriages, were on the ground.

The principals together with their seconds, surgeons, and armorers were on the ground early on Tuesday morning the 13th. Terry was attended by Colonel Thomas Hayes and Calhoun Benham as his seconds, and Dr. William Hammond, surgeon; Broderick's seconds were Colonel Joseph C. McKibben and David D. Colton, ex-sheriff of Siskiyou county, while his surgeon was Dr. Ferdinand Loehr, who was also editor of a German anti-Lecompton newspaper in San Francisco.

Two pairs of dueling pistols had been provided; one belonging to Joseph R. Beard, but at the time in the keeping of Dr. Daniel Aylette of Stockton, was of French make, had been used in several duels, and was now produced by Terry's seconds; Broderick's seconds also produced a pair.

While the seconds were measuring the ground and making the other preliminary arrangements, the conduct and appearance of the two principals were carefully noted by all present. Neither showed any sign of nervous excitement or anxiety, though Terry was apparently the more composed, standing quietly with his surgeon, while Broderick paced up and down near his friends, Dr. Loehr following and carrying or half dragging a sack of surgical instruments, from which a saw protruded suggestively—conduct that would have disconcerted some men—though Broderick showed no annoyance. As the morning was bleak and chilly, both wore their overcoats, but when these were laid aside both appeared in Prince Albert coats, closely

buttoned, with soft felt hats, Broderick's drawn well down over his eyes, while Terry's was worn well back with the brim turned up.

Broderick's seconds won choice of position and placed him with his back to the sun which at the moment was just beginning to show above the San Bruno hills; Terry's won choice of weapons and of course took the French pistols. This it was subsequently claimed gave him no small advantage, since they were of peculiar shape, not easily fitted to the hand of one not accustomed to them; and Broderick had never seen them before while Terry had practised with them. These, after they had been examined by the seconds, were loaded in their presence, the one Broderick was to use by "Natchez," the gunsmith, and Terry's by his friend Sam H. Brooks. Then Mr. Benham examined Broderick's person to see that he wore nothing likely to stop or deflect a bullet, and Colonel McKibben similarly examined Judge Terry. Both had previously handed their watches, money, etc., to their seconds.

The word was now exemplified as it would be given, and then both were asked if they were ready. Judge Terry answered promptly, but Broderick apparently finding some difficulty in adjusting the peculiar pistol to his hand, hesitated slightly and then he also answered, "ready."

Mr. Colton began to give the word "Fire-one-two," but between the word "fire" and "one" Broderick's weapon was discharged, the ball striking the ground only nine feet in front of him. The adjustment of the trigger had been so delicate that the weapon was discharged while he was elevating it. He was now

disarmed, nevertheless he stood as firmly and calmly as before, awaiting the bullet of his adversary. It came before the word "two" was pronounced, striking him in the right breast. Convulsively his right arm—the hand still grasping the pistol—was raised nearly in line with his shoulder, extended nearly full length and then fell by his side. Then his head dropped to his breast, and sinking first on his left knee, he fell to the ground. The surgeon and his seconds hastened to his assistance, and it was soon seen that the duel was over.

Terry had meantime stood in his place, watching his opponent. To Mr. Benham, who had stepped to his side, he remarked that he had "hit too far out," indicating that he thought the wound was not a serious one, and that another shot might be demanded. But this was soon seen to be impossible. Broderick's wound was mortal.

He was removed to the house of a friend, Leonidas Haskell, near Black Point, where the ablest surgeons of the time attended him, but it was not possible to save his life. Terry's bullet had entered a vital part and at 9:20 on Friday morning he passed from earth.

Lagoarde, or "Natchez" the gunsmith, testified at the inquest that there was a perceptible difference in the adjustment of the pistols; that which Terry's seconds had left for Broderick being the more delicate, and that he had called the attention of Colonel McKibben and Mr. Colton to this fact on the field; but this they later denied. The fact that he had made such a statement, however, gave rise to much unfavorable comment, not yet worn away, that the choice of pistols on that fatal morning really decided the battle.

Possibly some suspicion of this kind in Broderick's own mind prompted his dying remark to Colonel Baker: "They have killed me because I was opposed to a corrupt administration and the extension of slavery," though the remark would indicate that he did not hold Terry alone responsible for his death. He must have realized, and doubtless did realize that if he had escaped Terry's bullet he would have to face still others. It can hardly be possible that Gwin would have failed to call him to account for his stinging charges and denunciations, if Terry had found sufficient cause for a challenge in the comparatively mild remark he had made about him; and if he had survived an encounter with Gwin there would have been still others to be settled with. He was in fact an early, if not the earliest victim of that "irrepressible conflict" which was at the time just beginning.

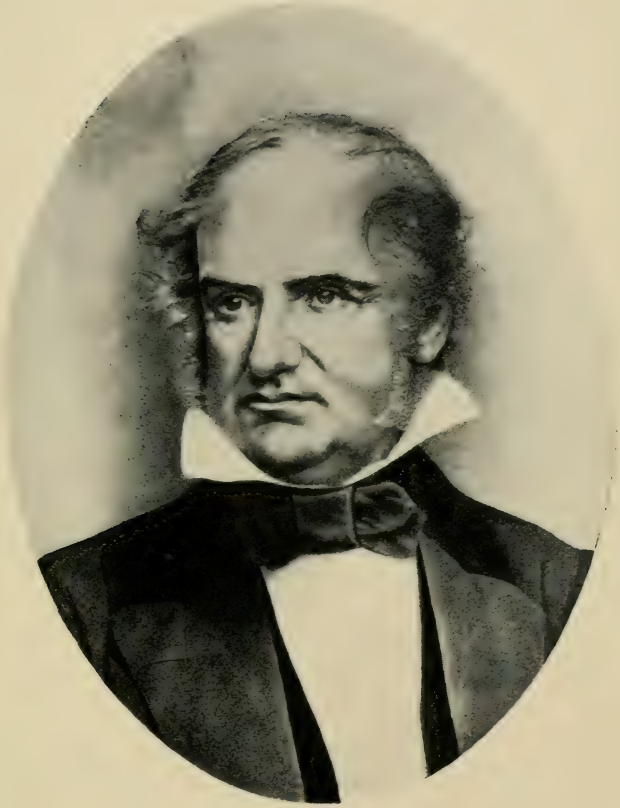
His funeral was, and will long continue to be memorable in San Francisco. It was held on the Sunday following his death. A platform had been erected in Portsmouth Square on which the body was placed, and from which Colonel Baker pronounced the funeral oration. An immense multitude attended and followed the remains to their last resting place in Laurel Hill cemetery, where the state subsequently erected a fitting monument to the man its legislature had once censured.

Broderick's death was as genuinely lamented in the east and north as in California. His conduct in the senate during the two short years he had served there had won the admiration of all the opponents of slavery extension, and wrung compliments even from those who

EDWARD DICKINSON BAKER

Born at London, England, February 24, 1811; killed at the battle of Ball's Bluff (Virginia), October 21, 1861; came to California in 1853. Baker was member of congress from Illinois in 1845-46; colonel of Fourth Illinois infantry in Mexican war. In 1859 Baker went to Oregon where he was elected United States senator in 1860. On the breaking out of the Civil War Colonel Baker declining an appointment as brigadier-general of volunteers tendered him May 17, 1861, organized, by special authority from the war office, a regiment of returned Californians, living in New York and Pennsylvania and became its colonel June 22, 1861. The regiment was known as the "Californians" but was officially registered as the 71st Pennsylvania. On the 21st of September, 1861, he was appointed major-general of volunteers but had not accepted when he was killed thirty days later. At Ball's Bluff, Baker, in command of 1900 men, was defeated, losing 47 per cent. of his force.

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favored it. He had proved himself a man of ability and courage, true to his cause, an unfailing friend and an honorable enemy; and though lacking something in the nicer qualities which distinguish men of cultivation, he was withal a man whom those who possessed those qualities were glad to count their friend; and long after his death there were men in the highest positions of official life who remembered with pride that they had been associated with Broderick.

A few sentences from the matchless funeral oration pronounced above his bier can best describe the man as he really was: "Temperate, decorous, self-restrained, he had passed through all the excitement of California unstained. No man could charge him with broken faith or violated trust; of habits simple and inexpensive, he had no lust of gain. He overreached no man's weakness in a bargain, and withheld from no man his just dues. Never in the history of the state, has there been a citizen who has borne public relations more stainless in all respects that he. * * * He was honest, faithful, earnest, sincere, generous, and brave; he felt in all the great crises of his life that he was a leader in the ranks; that it was his high duty to uphold the interests of the masses; that he could not falter. When he returned from that fatal field, while the dark wing of the Archangel of Death was casting its shadow upon his brow, his greatest anxiety was as to the performance of his duty. He felt that all his strength and all his life belonged to the cause to which he had devoted them. * * * He was the last of his race; there was no kindred hand to smooth his couch or wipe the death damp from his brow; but around that dying bed strong men, the

friends of his early manhood, the devoted adherents of his later life, bowed in irrepressible grief, 'and lifted up their voices and wept.'"

CHAPTER IV.

CIVIL WAR TIMES

FEW people in California felt more than a general interest in the slavery question during the campaign of 1859, or gave more than a passing thought to the inevitable end to which the discussion of it was leading. Broderick and Baker, and speakers of lesser note had pointed out the dangers of the situation; but the bitter personalities of the campaign, the fierce invective and scathing denunciation with which the leaders had assailed each other, diverted attention from, or dulled the general interest in the great issue which in other states was almost the only subject of interest.

But the shooting of Broderick turned public attention more sharply to the perils of the time. In the solemnity of his dying hour he had declared that he had been killed because of his opposition to the extension of slavery. Baker in his famous funeral oration, which had been widely published and generally read, had spoken of his death as "a political necessity, poorly veiled under the guise of a personal quarrel." Many newspapers charged that he was the victim of a conspiracy formed to remove from the state and senate a vigorous and uncompromising opponent of the slave power. Thousands read these statements, and thought more soberly than they had been accustomed to think of what this new agitation of the slavery question might mean, that was again threatening to break up the union, had already involved Kansas in a bloody war, led to a murderous attack upon one opposing senator at his desk in Washington and to the killing of another on the shore of the Pacific. Possibly it might mean that the union was in danger, or, as had been declared in

an often quoted speech made by a then obscure statesman in Illinois scarcely more than a year earlier, that the agitation was to be pushed on until slavery "shall become alike lawful in all the states, old as well as new, north as well as south."*

Evidence that the slave power was not content to allow California to remain a free state was not lacking, although it had not hitherto caused much comment. In 1852 a resolution had been offered in the assembly proposing to allow fifty southern families to migrate to the state with their slaves, but it was not adopted. A considerable number of slaves had been brought to the state by their masters from time to time, and employed by them in the mines. One of these had attracted much attention by an effort to gain his freedom by legal process, and his case had called forth an opinion by Judge Burnett, humorously commented upon at the time as "giving the law to the north and the nigger to the south." In 1856 an attempt was made to seize two negro families consisting of fourteen persons who had somehow found their way into San Bernardino county, and return them to slavery, but it had not been successful. No general protest had been made against these violations of the constitution, but as the slavery agitation increased they were remembered as showing how insidiously and persistently the pro-slavery advocates were working to accomplish their ends.

Preparations for the presidential campaign began early in 1860. The committees of all the parties met in January and arranged to name their delegates to

*Speech of Abraham Lincoln at Springfield, Illinois, June 17, 1860.

the national conventions in February. Many efforts to reunite the Lecompton and anti-Lecompton factions were made but all were futile. The difference between them was irreconcilable, and the ill feeling engendered in the recent campaign made any sort of coöperation impossible. There was, as was well known, almost an equal lack of harmony in the older states. Prospects for party success were therefore not encouraging, and the anti-Lecomptonites resolved to send no delegates to the national gathering at Charleston, but urged their compatriots in all the counties to cherish the principles for which they stood, and "sustain them at all times, and under all circumstances as their wisdom may suggest." Some of these took part in the primaries for the Lecompton convention, but when the delegates chosen gathered at Sacramento in February they formed a most inharmonious assemblage. Comparatively few anti-Lecompton delegates had been elected, but the confusion could hardly have been greater had they been as numerous as the Lecomptonites. After a stormy session lasting through a whole day, a chairman was chosen during the evening and an organization completed. On the following day a platform was adopted declaring the decision recently pronounced in the Dred Scott case* to be "the true construction of the law of the land"; that any intervention of federal power in controlling the policy of the territories "is highly

*Dred Scott, a negro, had been taken by his master, an army officer, to Rock Island in Illinois and later to Fort Snelling in Minnesota, where he had been kept for some time as a slave. Later, after his return to Missouri, he began suit in the courts of that state, claiming his freedom on the ground of long residence in free territory. The case finally went to the Supreme Court of the United States where it was twice argued and attracted a great deal of attention because of the political question involved. It was finally decided against Scott by a divided court.

impolitic and subversive of the fundamental principles of government, except in cases of unlawful resistance to the laws and the mandates of courts," and that "while we deprecate all efforts at disunion, we are prepared to maintain the independence of California." It also declared Daniel S. Dickinson to be its first choice for president, and named Austin E. Smith, G. W. Patrick, Newell Gregory, John S. Dudley, L. R. Bradley, John Raines, John A. Dreibelbiss, and John Bidwell as delegates.

The republican convention sent F. P. Tracy, Leland Stanford, A. A. Sargent, D. J. Staples, and D. W. Cheesman as delegates to the convention at Chicago, which later nominated Abraham Lincoln.

News of the disruption of the Charleston convention was received in due time, and the results of the meeting of the two factions to be held later at Baltimore and Richmond was awaited with some anxiety. Meantime news came of the nomination of Lincoln at Chicago, and caused no little disappointment among republicans to whom he was as yet but little known. Still later the candidacy of John Bell of Tennessee, who had been put forward by a faction calling itself the Constitutional Union party, was announced, and on July 15th, it was learned that all efforts to harmonize the warring factions of the democracy had proved futile; that separate conventions had been held at Richmond and Baltimore, the former naming Breckenridge and the latter Douglas as their candidates.*

*The California delegates acted with the radical southern element at Charleston and joined with it at Richmond in nominationg Breckenridge.

This news created great excitement in California as it did elsewhere. It was believed by many that the division of the party meant that the southern members were determined to carry out their oft repeated threat to break up the union if a republican president should be elected, and strongly suspected that they had divided their own party to make such a result possible if not inevitable. While the issue made was nominally the old one as to slavery in the territories, the real issue was felt to be union or disunion.

It was evident from the beginning that the campaign would be a spirited and exciting one. The leaders of the two democratic factions early issued long addresses designed to show the rank and file of the party where their allegiance as true partisans was due. That favoring the Breckenridge ticket was signed with sixty-five names, twenty-two of which were those of federal office holders and eight or nine of government contractors; while that of the Douglas faction bore one hundred and fifty names, that of Governor Downey leading, and followed by those of many who had been Broderick's staunchest supporters, among them J. P. Hoge, W. M. Lent, John Parrott, R. P. Hammond, James T. Ryan, H. W. Halleck, J. A. McDougall, James Denman, Frederick Billings, Eugene Casserly, P. B. Cornwall, Alvinza Hayward, and Myron Norton. Neither faction could show an indisputable claim to be the real simon pure democracy. Neither Breckenridge nor Douglas had received the votes of two-thirds of the delegates in the convention, as required by immemorial democratic usage, and therefore neither could claim to be the "regular" nominee. But it was insisted in

behalf of Breckenridge that he stood by the principles enunciated in the Dred Scott case, a faithful adherence to which was essential to the peace and harmony of the union. On the part of Douglas it was declared that the break from the convention at Charleston meant disunion, and that the main object of those who had led it was to destroy the government. "To this," they said, "the true men of the south and north, the east and west will object. They will not only object—they will resist. They will do more than this—they will overwhelm the disunionists. * * * We call upon the democracy everywhere, and upon all true union-loving patriots to join us in giving them one effective and final blow, by placing at the head of this nation the true representative of the national and union-loving democracy."*

It was soon known that senators Gwin and Latham would support Breckenridge—indeed, it was inevitable from the first that they would do so, as they had long been leaders in the "Chivalry" element. Latham sent home and had published a long letter giving his reasons for pursuing the course he had chosen. His party had always boasted with pride and exultation, he said, of its adherence to principle; and looking back upon a long series of triumphs won by its adherents, he was not disposed to mar that record by "a beggarly and miserable scramble over party machinery or regularity, irrespective of principle." He supported Breckenridge because he agreed with him and those who nominated him, and he opposed Douglas because he did not agree with him. Ex-Governor Weller also declared for Breckenridge, although by this time he exerted very little influence.

*Davis, *Political Conventions in California, p. 115.*

Governor Downey early declared for Douglas. In August General Denver published a letter in which he characterized the Breckenridge party as a faction "striving to divide the democratic party, and finally to dissolve the union."

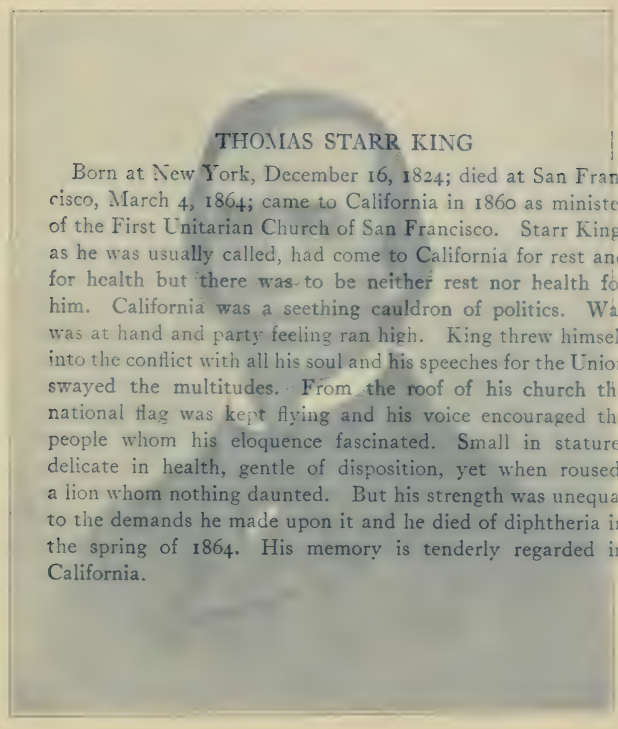
The republicans soon recovered from their disappointment over the failure of Seward, who had been their favorite, to secure the nomination. Although they had cast less than ten per cent of the vote in the state election held only a few months earlier, they now saw or thought they saw in the division of their opponents, made sharper and clearer as it had been by the killing of Broderick, a chance to carry the state, and they went about the work of the campaign with enthusiasm and hope. They had lost their most effective orator since the campaign of the preceding year. Colonel Baker who had been their candidate for congress and been defeated, had been enticed away to Oregon, but his loss was in some degree compensated for by the appearance of an unheralded but equally eloquent speaker, a young Unitarian minister, Reverend Thomas Starr King, who arrived in April and later toured the state, giving lectures on patriotic subjects, but always declaring for the union and the republican candidates as the surest guaranty for its preservation.

The campaign of 1860 was as notable for its badges and banners, its marching clubs and torchlight processions, as that of 1840 had been for its daylight parades and rallies, its coon skins and log cabins. Every voter, and every son of a voter who was old enough to take interest in such things wore a badge with the image and superscription of his candidate, or something equally

indicative, or carried a torch in the parades of Wide Awakes, Ever Readys, Douglas Guards, or Invincibles. Campaign literature was also distributed in great quantity by all parties, Mr. Lincoln's Cooper Union speech figuring largely in that distributed by the republicans, while speeches by Douglas and Breckenridge made on various occasions were sent broadcast by their partisans. There was no lack of speakers in any party, and most eloquent among these was James A. McDougall who was soon to succeed Gwin in the senate, and others were Governor Downey, John Nugent, J. R. McConnell and J. W. McCorkle for Douglas, Thomas Fitch, Frank M. Pixley, Nathan Porter, Leland Stanford, and A. A. Sargent for Lincoln, and Senators Gwin and Latham, Ex-Governor Weller, B. F. Washington, and Frank Tilford for Breckenridge.

From the beginning the orators of the Breckenridge party made much of the dangers of disunion that would follow the election of Lincoln, and as the campaign advanced, more and more openly excused and defended those who were threatening it. Near the close of the campaign Governor Weller openly declared at San José that the south would surely withdraw from the union in the event of Lincoln's election, and that he "should consider them less than men if they did not."

The Douglas party undoubtedly suffered something from this open advocacy of, and apology for disunion on the part of their old party associates. They still avowed allegiance to the same party and devotion to its principles, and many doubtless did not readily distinguish between a democracy that threatened, in a certain contingency, to destroy the government, and

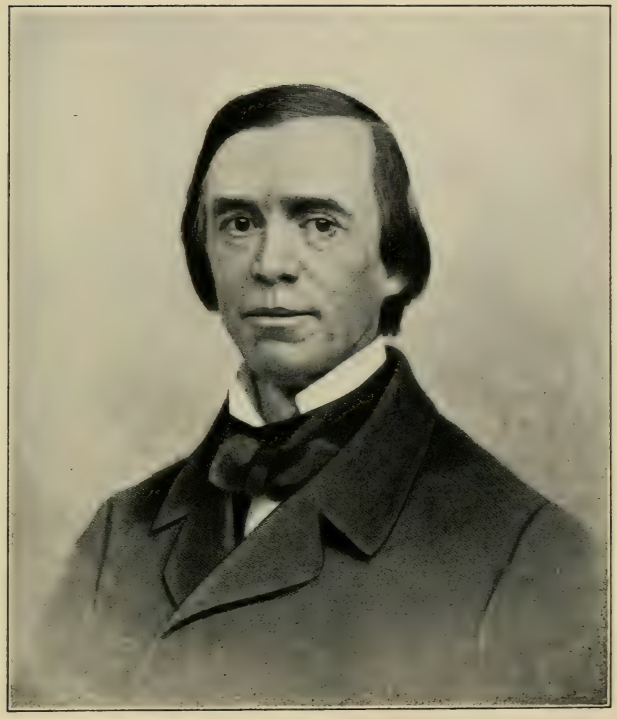


THOMAS STARR KING

Born at New York, December 16, 1824; died at San Francisco, March 4, 1864; came to California in 1860 as minister of the First Unitarian Church of San Francisco. Starr King, as he was usually called, had come to California for rest and for health but there was to be neither rest nor health for him. California was a seething cauldron of politics. War was at hand and party feeling ran high. King threw himself into the conflict with all his soul and his speeches for the Union swayed the multitudes. From the roof of his church the national flag was kept flying and his voice encouraged the people whom his eloquence fascinated. Small in stature, delicate in health, gentle of disposition, yet when roused, a lion whom nothing daunted. But his strength was unequal to the demands he made upon it and he died of diphtheria in the spring of 1864. His memory is tenderly regarded in California.

indicative, or carried a torch in the parades of Wide Awakes, Ever Readys, Douglas Guards, or Invincibles. Campaign literature was also distributed in great quantity by all parties, Mr. Lincoln's Cooper Union speech figuring largely in that distributed by the republicans, while speeches by Douglas and Breckenridge made on various occasions were sent broadcast by their partisans. There was no lack of speakers in any party, and most eloquent among these were James A. McDougall who [illegible] and others [illegible] McConnell [illegible] Leach, Frank [illegible] and A. A. [illegible] and Latham, [illegible] and Frank [illegible] campaign [illegible] defended [illegible] close of the [illegible] Weller openly declared at San José that the south should surely withdraw from the union in the event of Lincoln's election, and that he "should consider them less than men if they did not."

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that which promised to preserve it. The union sentiment was strong in California as in any other northern state, and was only waiting to be fully aroused to sturdily assert itself. Many still hoped as many were hoping in other states, that the troublesome slavery agitation would be compromised or adjusted in some way, as it had been accommodated heretofore. They were anxious to do what they might by their votes to bring about such an arrangement. They did not favor abolition; many of them despised abolitionists, and they did not like to be classed with "Black Republicans"; but if force was to be resorted to they would stand for the union without being particular as to who stood with them.

Neither party had in its ranks a man with Broderick's skill as an organizer, to marshall its forces, direct its efforts toward the localities where they would be most effective, anticipate the work of the opposition or counteract it, prevent unfair advantage being taken in neglected precincts, and above all to awaken negligent voters, who are too busy with their private affairs to attend to public duties, to a sense of their responsibilities. This class is always large and steadily growing larger; and in this fact lies one of the greatest dangers of popular government. The idle, the ignorant, and citizens to whom the privileges of citizenship are new, rarely fail to attend the polls when opportunity to vote is offered; busy people, those who have most at stake, and who ought to be most interested in the quality of government they have, are frequently if not almost always negligent. The result is seen everywhere in increasing taxation, still more rapidly increasing debt,

lavish expenditures, reckless legislation, and an alarming diminution of respect for government. It is seen also in the fact that the appeals of aspiring place hunters are directed more and more toward those who exercise their privileges with least intelligence, and pay but a diminishing respect to those who could be moved only by reason. Minorities rather than majorities rule; the demagogue is exalted, the inventor of new political dogmas encouraged; business is hampered by confused legislation, honest toilers are interrupted in their employment, savings are dissipated by idleness for which there is no cause, but from which there seems to be no escape, and anarchy seems at times to be not far off.

The methods of Broderick as a political manager have often been censured and derided, and to some extent justly, though his faults were the faults of his time and partly of the present time. But his methods were not all faulty; those which were so would have served him to little purpose had those who complained of him attended to their duties as citizens as their own best interest required, or could they have been induced to do so. A popular dramatist has made Richelieu say that he had "wrought great uses out of humble tools," and it was so with Broderick—is so with every political manager, be he honest or otherwise, for it is with such tools he is left to work—to use them unresisted either for good or evil as he may elect, while those who might easily counteract their efforts by performing their simple duty as voters, fail to do so until evils have been long endured and further endurance made almost impossible.

Very late in the campaign the republicans were

greatly helped by a single speech made by Colonel Baker while on his way to Washington to take his seat in the senate. He had gone to Oregon in February, at the invitation of some influential citizens of that newly admitted state, to take part in the campaign of that year, and was so successful that when the legislature met in September he was elected senator, defeating a candidate championed by Ex-Governor Joseph Lane, who had for several years represented the territory as its delegate in congress and later the state as senator, and who was now the candidate for vice-president on the Breckenridge ticket. Baker arrived in San Francisco on October 19th and was welcomed by a salute of one hundred guns as his ship entered the harbor. An immense company of his old friends, acquaintances, and admirers waited to greet him at the wharf and escort him in triumph to his hotel. It was immediately arranged that he should speak on the evening of the 26th in the American Theatre, which then stood on ground now covered by the Halleck block at the northeasterly corner of Sansome and Halleck streets. Ardent republicans came from far and near, from San José, Stockton, Sacramento, and even Marysville, to attend. The Wide Awake clubs paraded, cannon were fired, bands filled the air with music, and the great theatre, said to hold fully four thousand, was filled from pit to dome, many standing in the aisles and along the walls in the galleries. The speaker was at his best, and his speech was long after regarded as the most eloquent that had ever been delivered in California. Some passages in it were particularly admired, notably an apostrophe to freedom, and an impassioned declaration

that: "Even under the shadow of the throne of Russia; on the banks of the Seine, where the ashes of the first Napoleon repose; where the British Queen in majestic dignity presides over a nation of freemen—everywhere abroad, the great ideas of personal liberty spread, increase, fructify. Here, ours is the exception! In this home of the exile, in this land of constitutional liberty, it is left for us to teach the world that slavery marches in solemn procession; that under the American stars slavery is protected, and the name of freedom must be faintly breathed, the songs of freedom be faintly sung! Garibaldi, Victor Emanuel, hosts of good men are praying, fighting, dying on battle-fields, for freedom; and yet while this great procession moves under the arches of liberty, we alone shrink back trembling and afraid when freedom is but mentioned!"

This speech was published and widely circulated during the eleven days remaining before election. Meantime news that the republican state tickets had been successful at the October elections in Pennsylvania, Ohio, and Indiana was received, and added much to the hopes and expectations of republicans in California. The vote was taken on November 6th, and when the last returns were received from far away precincts in Del Norte and Siskiyou on the north and San Diego on the south, it was found that Lincoln had carried the state by a plurality of six hundred and seventy-six votes—counting the lowest vote for a Lincoln and the highest vote for a Douglas elector.

There had been a wonderful change in public sentiment in the fourteen months since the balloting at the close of the fierce contest between the Gwin and

Broderick factions in 1859. Of the 62,255 votes then given to Latham the Lecompton candidate, only 33,970 were now given to Breckenridge, the candidate of the same faction; the Douglas electors had received 38,023 votes, a gain of 6,725 over the vote for Currey, the candidate of the anti-Lecomptonites, while Lincoln had received 38,699 against the 10,110 cast for Stanford. It was evident that a large part of the Chivalry or Lecompton party was not in favor of disunion, and this was amply proven later. It may be that some of the extremists who afterwards went south and fought on the confederate side, voted for Lincoln as was charged at the time, in order to give opportunity to make good their often made threat to break up the union in the event of the election of a republican president; but the majority of the Lecomptonites who changed evidently voted for the undoubted union candidate, rather than for Douglas whom they disliked for having disrupted their party, and whose loyalty they may have suspected because of his former associations.

By the time the votes had been counted in California it was known that Lincoln had been elected. News that the southern states were preparing to carry out their threat to leave the union soon followed. South Carolina seceded in December; Mississippi, Georgia, Alabama, Florida, and Louisiana followed in January, and their senators and representatives withdrew from congress. Forts, arsenals, and other government property in the seceding states were seized, and Major Anderson was besieged in Fort Sumter in Charleston harbor. Judges and other officers of the federal courts in the seceded states resigned, and a confederate con-

gress was summoned to meet at Montgomery, Alabama. On the other hand the legislatures of various northern states expressed their determination to defend and preserve the union, and public meetings were held in many cities at which resolutions were adopted urging the most abject surrender.* Many influential newspapers including the New York "Tribune," advised that "our erring sisters," be allowed to go in peace, while some others more openly approved their action; and there was much else to indicate that what Bishop Butler had spoken of as "the possible insanity of states" was something more than possible.

Congress spent much time during the short session of 1860-1 in formulating and discussing measures of compromise, and finally adopted and submitted for the approval of the states, an amendment to the constitution, declaring that congress should never have power to abolish or interfere with slavery in any state where it then existed. This, had it been accepted and adopted, would have held the place now held by the thirteenth amendment of today, which makes slavery forever impossible in any state.

In all the confusion and excitement one great figure only remained calm. He was the newly elected president, at the moment powerless but soon to be invested with vast powers. He, of all the statesmen of the time, saw clearly the policy that must be pursued, in case those threatening rebellion persisted in their purpose; but though frequently and urgently pressed to make some statement that would help to relieve the tension, he refused to do so, believing "it would do no good and

*Horace Greeley, *The American Conflict, Vol. I, p. 362.*

might do harm."* He had many times declared that he had no purpose to interfere with slavery in the states, and believed he had no power to do so. It could do no good to repeat this declaration, for, as he said to a friend "if they hear not Moses and the prophets neither will they be persuaded though one rose from the dead."

In due time Mr. Lincoln was inaugurated, and what followed it is unnecessary even to recapitulate here. The plan which he had formed in those months of silence following his election, and declared so unostentatiously in his inaugural address, was steadily followed. It was first of all important to save to the union the border states and the Pacific coast states where there had long been talk of a Pacific republic. This would be difficult, perhaps even impossible, if an aggressive policy were adopted. So the opposite policy as announced in the inaugural was followed. "In your hands, my dissatisfied fellow-countrymen, and not in mine is the momentous issue of civil war. The government will not assail you. You can have no conflict without being yourselves the aggressors."

The idea of a Pacific republic had been conceived early, and appears to have had from the first, a more important place in the plans of those who were plotting to divide the union than many have supposed. The possibility of such a thing had been suggested by politicians in California before the constitutional convention was organized in 1849. Later it was hinted at from time to time by members of the Chivalry, who always charged that their opponents were harboring some design of that kind, though there was never any

*Letter to N. Paschal of the Missouri "Republican," *Nicolay and Hay, Vol. III.*

evidence that they had even thought of it. General Volney Howard, in his report to Governor Johnson in 1856, declared his conviction that the members of the Vigilance Committee were aiming "at nothing less than the entire overthrow of the state government, secession from the union, * * * and a separate government on the Pacific." Judge Terry had expressed a similar belief in his letter of June 28th to Commander Boutwell.* There were many other expressions of the kind, always made by the same parties; and there can be no doubt that the object of that resolution expressing confidence in the constitution and laws of the United States and of the state, adopted by the great mass meeting on July 14th, while the Vigilance Committee was still at work, was to answer such charges and insinuations. After the campaign of 1859, in which some effort was made to cast odium on the Broderick faction as cherishing some intention of this kind, the Chivalry discontinued this policy, and gradually began, more or less openly themselves to recommend an entirely separate government for the Pacific states, in case the union should be dissolved. That was the meaning of the resolution adopted by the Lecompton convention held at Sacramento in April, 1860, which deprecated all efforts at disunion, but declared that its members were "prepared to maintain the independence of California." A week earlier Senator Latham had told the senate that a separate republic would be organized on the

*In this letter Terry said: "The government of the state has already made ineffectual efforts to quell the rebellion [i. e., the Vigilance Committee], and the traitors emboldened by success have already hung two men, and banished a great many others, and some of their members now openly threaten to seize the Forts and Arsenals of the United States as well as the ships of war in port and secede from the Federal Union." *Commanders' Letters No. 13, Navy Department files.*

Pacific in the event of a separation between the north and south,* and Gwin had more than once, though not so conspicuously, made a similar declaration.

At the beginning of the legislative session of 1860 Governor Weller—whose influence was no longer great, though he undoubtedly expressed the sentiments of those by whom he was surrounded—had said in his message that "if the wild spirit of fanaticism, which now pervades the land should destroy this magnificent confederacy—which God forbid—she (California) will not go with the south or the north, but here upon the shores of the Pacific found a mighty republic which may in the end prove the greatest of all."

After the inauguration of President Lincoln, declarations of this kind were far more frequently and openly made, though Latham, for some reason changed his ground and took occasion to tell the senate that his former declaration had been premature. Both members of congress from this state were in hearty accord with the secessionists, and both wrote home recommending that steps be taken at an early day to form a confederacy of coast states.† Burch looked to it as certain to be "a prosperous, happy and successful republic" and Scott advised it as a means of self-preservation; but both evidently favored it largely for the reason that it would be more helpful to the south than the north.

The first business of the legislature of 1861 was to elect a senator to succeed Gwin whose term was to

*Speech of April 16, 1860, *Congressional Globe*.

†Burch's letter was printed in the San Francisco "Herald" on January 3d and Scott's on the 16th.

expire on March 3d. He was a candidate for reëlection, though with no prospect of success, for the Breckenridge faction was hopelessly in the minority. Weller and John Nugent also sought support from the same faction, while the candidates of the Douglas party were James A. McDougall, Edmund Randolph, Henry Edgerton, J. W. Denver, and Humphrey Griffith. McDougall was nominated in caucus and the republicans chose Timothy Guy Phelps. Twenty-two ballots were taken in joint convention before a choice was made, and then McDougall was elected by a majority of only one vote.

During the contest a quarrel arose between Daniel Showalter, an assemblyman from Mariposa county, and Charles W. Piercy of San Bernardino which resulted in a duel, Piercy being the challenging party. The meeting took place in Marin county about three miles west of San Rafael on the afternoon of May 25th. The weapons were rifles at forty yards. At the first fire neither party was hit and Showalter demanded a second in which Piercy was killed. This was the last of the political duels in California, and as in all others the pro-slavery man was victorious.

A large part of the session of the legislature of 1861, which was a long one, was devoted to the consideration of various resolutions designed to express the sentiments of its members, and through them those of the people of the state with regard to the pending trouble. The first of these was proposed in the senate on January 18th and the last on May 24th. With the various amendments, substitutes, and changes made by committees, there were thirty-two of these declarations in various forms proposed and considered. Most of them declared

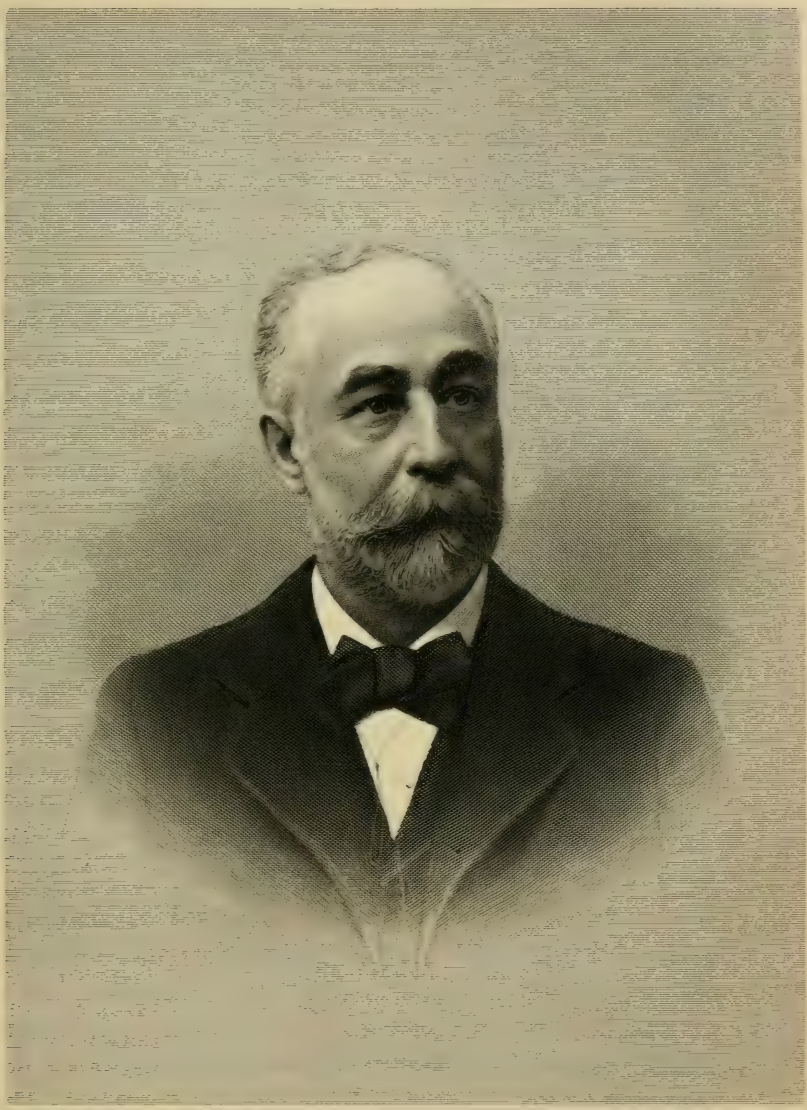
JOHN F. MERRILL

Born at Hollowell, Maine, March 2, 1841; died September 29, 1912; came to California in 1864. He had been in business in Boston before coming to California, and he entered the house of Lord, Holbrook and Company of Sacramento, a concern founded by his father, Ambrose Merrill, in 1850, and which subsequently became the well known stove and metal house of Holbrook, Merrill, and Stetson, of San Francisco. In 1869 Mr. Merrill became a partner in the concern and remained actively connected with its management until his death. He was also largely identified with other business and financial enterprises.

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John F. Merrill



for the union, with loyalty varying in degree from the robust and unequivocal kind, to that which would impose conditions that made it very doubtful; several members favored the plan of compromise which had been proposed by Crittenden of Kentucky; a few urged that a convention of the states be called to amend the constitution or provide some other plan of settlement; five were very favorable to the seceding states, and three condemned all proposals and suggestions of a Pacific republic. The declaration finally adopted approved the Crittenden plan of compromise, and commended the patriotism and wisdom "of both Douglas and Breckenridge in supporting it" and "for condemning the use of military force, under the existing circumstances, to coerce the southern people, recommending conciliation and concession rather than war, and compromise rather than disunion."

When the legislature convened the Douglas members had a working majority in each house, but they were without competent leaders and therefore failed to exert the influence their numbers should have given them. They were, in the main, heartily loyal to the union, but not yet convinced that the seceded states were determined to leave it. They did not at first vote to endorse the Crittenden proposition, though there was no particular difference between them and the Breckenridge members on that score; but enough of them voted for it, when amended so as to compliment both Douglas and Breckenridge, to secure its adoption. Commenting on the situation the Sacramento "Union," on February 28th said: "The intention of the Breckenridge leaders is, if possible, to place themselves and

their party in the position of the democratic organization of the state, and the only antagonist of the republicans. They are determined there shall be but two parties, and that they shall lead one of them."

This was in fact true, as developments fully proved. Early in the session they had started a movement to reunite the democratic factions, and on February 18th a caucus had been held, though only ten Douglas members attended. Little was done, however, except to request the two state committees to hold a special joint meeting at an early day to devise a plan for harmony and reunion; and that in case of failure, all the democratic members of the legislature should formulate a plan. A special committee was appointed to solicit the attendance of members at an adjourned meeting on the 22d, at which time forty-four were got together but nothing was accomplished.

News of the attack on Fort Sumter reached California by the pony express on April 25th and created as much excitement as it had caused in other states. Political lines were quickly and sharply redrawn. The sole issue now was union or disunion, and most people found no difficulty in defining their positions. Members of the Douglas party were almost unanimously on the union side, and many from the Breckenridge faction joined with them.

The chairman of the Breckenridge committee had called a meeting for March 26th, agreeable to the request of the democratic members of the legislature, and in his call which had been generally published, he had made such pertinent inquiries as: "If peaceable dissolution comes, why should not California remain

with the free states? If a bloody separation, why should she not establish a Pacific Nationality?" The committee met in San Francisco on April 2d and in its call for a convention to nominate a state ticket had drawn a most doleful picture of the prospect for civil war which it declared must "finally end in despotism, with liberty lost forever." So far at least the policy of that faction had been declared before the news from Sumter was received, and it was thenceforth at a disadvantage. The call of the Douglas committee on the other hand appealed "to the whole people of California, without distinction of party or reference to partisan issues, to stand with us by our country and our flag, that all may know that the great union democratic party of California is the overpowering majority of her citizens."

At the time of Mr. Lincoln's inauguration General Albert Sidney Johnston was in command on the coast, with headquarters on Alcatraz island. He was a Kentuckian by birth, had resided in Texas for a number of years and had been colonel of the second regiment of cavalry, of which Robert E. Lee was lieutenant-colonel and George H. Thomas, Earl Van Dorn, and W. J. Hardee majors—until sent to command the expedition against the Mormons in 1857. The Second was then the most popular regiment in the army, and its commander would perhaps have been voted its ablest soldier, although Scott is said to have preferred its lieutenant-colonel to its colonel, to be his own successor. Johnston's southern birth, however, caused members of the new administration to distrust him when other southern born officers both of the army and

navy began to tender their resignations, and General E. V. Sumner was secretly hurried to the coast to replace him. Sumner arrived in San Francisco on April 24th, only a few hours before news of the firing on Fort Sumter was received, and immediately took command, Johnston turning it over without protest or hesitation. He was not taken by surprise, for news of the intended change had been sent him by the pony express, by one of the southern employees who still held his place in the war department, and his resignation had been already forwarded. He immediately took his departure for Richmond, going overland with a small escort of personal friends by the southern route.

While there was perhaps no occasion to fear that Johnston would turn over the fortified posts and other property of the government to the enemy, as Twiggs had done in Texas, the loyal people of California undoubtedly felt a sense of relief when it was known that a man of undoubted loyalty had succeeded to the command on the coast. Johnston had determined to go with the south, and would have gone even if he had not been so hurriedly relieved from command; and while he might never have openly betrayed the cause he had served, so far as to give open aid or encouragement to its enemies before he was relieved of command, nevertheless while he remained in control the fact would give them an assurance they could not otherwise feel.

The natural impulse of the people of California was to be loyal, just as it was in the other free states. It needed something like the attack on Sumter—a convincing proof that actual war would be made if need

be to break up the government—to arouse them. Mr. Lincoln had foreseen this and therefore had resolved to await attack. When it was made, most people ceased to discuss compromises, and made haste to declare themselves unreservedly for the union. In San Francisco a general public meeting was called for May 11th, to make a show of strength and draw the line sharply between those who were for the union and those who were against it. It was held out of doors, at the junction of Market and Post streets, because it was known in advance that no enclosed place in the city would accommodate those who would attend. Preparations for it were made by decorating the principal houses and business buildings in the city with the national colors, while flags floated from many windows and from all the ships in the harbor. Business was everywhere suspended and the multitude that assembled at noon to hear the speeches was the largest that had ever, up to that time, met together in the city. Governor Downey had been invited to preside, but unfortunately for his fame he did not accept. Although he had previously declared for the union he now wrote that in his view the only means of preserving it lay in "honorable compromise and respect for the constitutional rights of every section." * * * He "did not believe that war should be waged upon any section of the confederacy, nor that the union could be preserved by a coercive policy."*

This was sadly out of harmony with the spirit of the meeting, which was addressed by Senator Latham—who had by this time come over to the union side—

*Davis, *Political Conventions in California, p. 164.*

James A. McDougall, Generals Shields and Sumner; and Reverend Thomas Starr King, whose speech was one of the most effective of the many he had already made for the union cause. A number of prominent citizens whose loyalty had been in doubt, attended the meeting and even took an active part in it. The resolutions adopted expressed the devotion of the people of San Francisco to the union, and pledged their hearty support to the administration. There was now no doubt as to the sentiment of San Francisco, and the people of the interior towns and villages soon after expressed themselves with similar unanimity and emphasis.

The Breckenridge party no longer defended secession as openly as they had been doing, although many of them continued to criticise and even to denounce the efforts of the unionists to suppress the rebellion, as unconstitutional and otherwise objectionable, though generally in language more guarded than they had formerly used. In January a new flag, purporting to be that of a Pacific republic had been raised on a surveying schooner at Stockton; a Palmetto flag was shown in San Francisco in February, and the Bear flag was later displayed at Sonoma, San Bernardino, and Los Angeles; but such general and earnest protest was made in each case that the experiment was not repeated. In San Francisco the national colors had been floated from many of the church steeples before the meeting of May 11th, and after that event from all except that of Calvary Presbyterian church on Bush street below Montgomery. The pastor of this church was Reverend William A. Scott, who had come to California early in

the fifties from New Orleans, and whose sympathies were naturally with the south. He refused to raise the flag, and had offended some members of his congregation by praying each Sunday "for all presidents and vice-presidents." This he was, however, compelled to abandon. On the morning of Sunday September 22d, he found a very large flag floating over his church, while from a pole on the opposite side of the street was hanging an effigy labelled, "Dr. Scott, the reverend traitor." The street was filled with people who had been drawn thither by the unusual display, but no other demonstration was made before or during the service. The police removed the effigy, but the flag remained. Dr. Scott soon after resigned and went south.

People elsewhere along the coast were no less intolerant of disloyalty. When Senator Lane of Oregon who had been the candidate for vice-president on the Breckenridge ticket, returned to Portland he could hardly find an expressman to haul his baggage from the steamer to his home. He had been very popular in the state, having served it with distinction as territorial governor, delegate in congress, and senator; but his earlier services were permanently overshadowed by his advocacy of secession and a Pacific republic. About the time of Lane's return a young Mississippian named Stephen Gillis, afterwards well known in newspaper circles in San Francisco, and Virginia City, started a secession paper in Portland, but he published but one issue. In later years he told some of his fellow reporters that "while the paper did not live long there was a time when he thought it might outlast him."*

*C. C. Goodwin, *As I Remember Them*, p. 90.

The state conventions of the three parties were held in June and early in July. That of the Breckenridge party met first and sat for four days, most of the time being consumed in the consideration of resolutions that were not adopted. The platform as finally agreed upon opposed the use of force against the seceded states; favored the union "upon constitutional guarantees that would be acceptable to both sections," and the recognition of the confederate states in case no such agreement could be made. It also declared President Lincoln guilty of violating the constitution, usurping power in borrowing money and increasing the army and navy without the authority of congress. One delegate declared that he "deserved impeachment in hell, in heaven, and on earth," and the sentiment was received with applause. Several secession speeches were made, the most remarkable of all being that by Edmund Randolph who had formerly been one of Broderick's staunchest supporters.

John R. McConnell was nominated for governor, Jasper O'Farrell for lieutenant-governor, H. P. Barker and D. O. Shattuck for members of congress, and Samuel H. Brooks, who later went south and joined the confederates, for controller.

The republican convention met in the following week and declared that "the union of all states must be preserved, the federal constitution sustained, and the national flag respected wherever it waves." Leland Stanford was again named for governor, John F. Chellis for lieutenant-governor, Timothy Guy Phelps and Aaron A. Sargent for congress, and Frank M. Pixley for attorney-general.

The Douglas democrats, now calling themselves the union democratic party, met July 4th. Their convention was the largest that had ever, up to that time, assembled in the state. Its platform declared for the union as unequivocally as that of the republicans. "We hold," it said, "that our paramount allegiance is due to the federal government; that the right of state secession is a dangerous heresy, inevitably destructive of our form of government." There was a lively contest for the nomination for governor, between John Conness, Governor Downey, Eugene Casserly, John Bidwell, and J. W. McCorkle, Conness winning on the fourteenth ballot. Joseph C. McKibben and Henry Edgerton were named for congress.

A good deal of ill feeling was manifested during the campaign, those who sympathized with secession showing increasing bitterness after enlistments began, and warlike preparations became familiar. Sometimes their disloyal expressions were resented with violence. On election day weapons were drawn at several polling places, and a few prominent secessionists were driven from the polls.

Stanford, with the republican ticket, was successful, winning by 56,036 votes to 32,751 for McConnell and 30,944 for Conness. It was evident that a great many of the Douglas democrats had gone over to the republicans, in order as it appeared to more positively express their devotion to the union.

After the election a number of the most violent southern sympathizers in California went south and enlisted in the confederate army. Congressman Scott did not return to the state but went south from

Washington. Judge Terry, having been tried for the killing of Broderick and acquitted by the aid of a sympathetic judge and jury, returned to the practice of his profession, and after the election in 1861, went south accompanied by a few fellow extremists, going by the route General Johnston had taken. He subsequently raised a regiment in Texas of which he was made colonel, and with which he took part in several battles. Ex-Congressman Herbert, another Texan, returned to his native state, enlisted and was killed in battle. Other more or less prominent Californians who joined the confederate army, or went south for that purpose, were James Y. McDuffie who had been United States marshall in the time of James King of William, John T. Grenshaw, J. L. Brent, T. C. Flourney, George W. Gift, H. A. Higley, R. Shoemaker, Phillip Moore, and Samuel H. Brooks who, near the close of his term as state controller, and having failed of reëlection, resigned. Daniel Showalter who had killed Piercy in a duel, and a party of some fifteen or twenty who were moving with less celerity toward the confederacy, were overtaken near Warner's ranch in San Diego county, by a party of the first California volunteers who captured and imprisoned them in Fort Yuma; some of them are said to have already been provided with commissions in the confederate service, probably in the expectation that they would recruit their commands in California.

Senator Gwin, accompanied by Ex-Congressman Calhoun Benham—who had been one of Terry's seconds in the duel with Broderick—and J. L. Brent, started east by way of Panama in October, 1861. By the same steamer went General Sumner, who had been

relieved of command on the coast at his own request and ordered to the army in the east, leaving General George Wright as his successor. Before reaching the isthmus General Sumner became convinced that Gwin and his companions had some treasonable purpose in view, and caused their arrest. They were able, however, to throw some maps and papers overboard, before they were taken into custody, so it was not proven that they were really plotting treason; and after being detained in prison for a time in New York and later in Washington, they were liberated. Gwin subsequently claimed that he was to have joined Mason and Slidell in Havana, and later he did join Slidell in Paris.* Benham and Brent went south after they were released and joined the confederate army at the first opportunity.

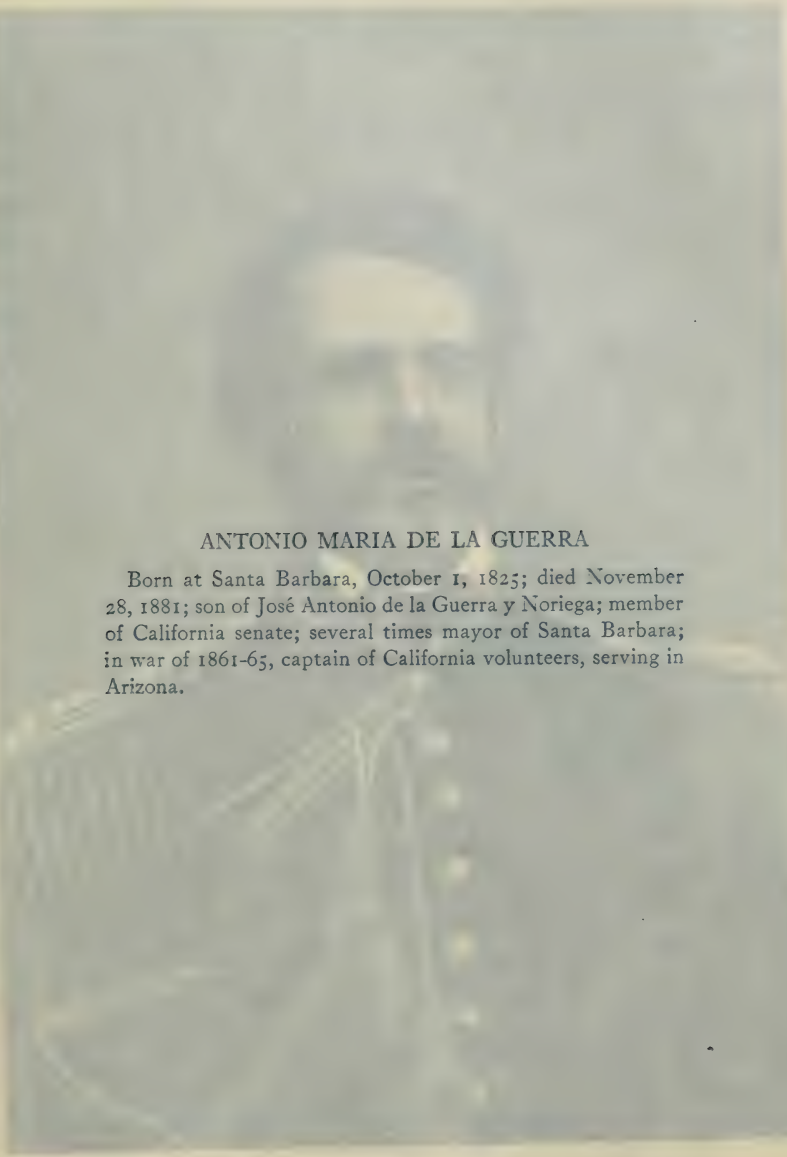
As soon as the first call for volunteers was received by pony express enlistments began, and California furnished all the men she was asked for during the war, and something more; for one company of one hundred and one officers and men, afterwards known as the California Hundred, and later four companies known as the California battalion, went east and joined a Massachusetts regiment; and eight companies for the First Washington regiment were later recruited in San Francisco, and in the interior.

The response to the first call was perhaps not as prompt as in the states nearer the scenes of action, but a full regiment of infantry and five companies of cavalry were ready for muster in August and September. They enlisted for three years, and at the expiration of that term reënlisted as veterans. When the second call

*Gwin MS. quoted by Bancroft, *History of California, Vol. VII, p. 284.*

was received in August four regiments of infantry and one of cavalry were raised; under later calls three regiments of infantry, seven companies of cavalry to complete the First cavalry regiment, a battalion of cavalry composed of four companies of native Californians enlisted, besides six companies of mountaineers to serve against Indians in the northern counties, who were beginning to be more than usually troublesome.

When the first companies both of infantry and cavalry were enlisted it was expected that their principal duty would be to guard the line of the overland mail from the eastern boundary of the state to Fort Laramie—the mail by the southern route having been discontinued after the secession of Arkansas and Texas; but before they were ready to march it was learned that rebel forces were threatening New Mexico and Texas, probably with a view of ultimately seizing California, and they were sent to Los Angeles, and later marched to New Mexico by way of Fort Yuma and Tucson. This march was perhaps the longest and most trying made by any volunteer troops during the war. Their route led across the sandy wastes traversed by Anza in 1774 and later by Kearny with a few regulars and the Mormon battalion. There were no railroads and all supplies as well as the sick had to be transported by wagons or pack trains. Water could be had only at irregular intervals, the wells and water holes being in some places from twenty to ninety miles apart. When mountains were crossed snow from a few inches to three and four feet deep was encountered, and men who had been suffering from the extreme heat of the desert were frequently nearly frozen. They were much

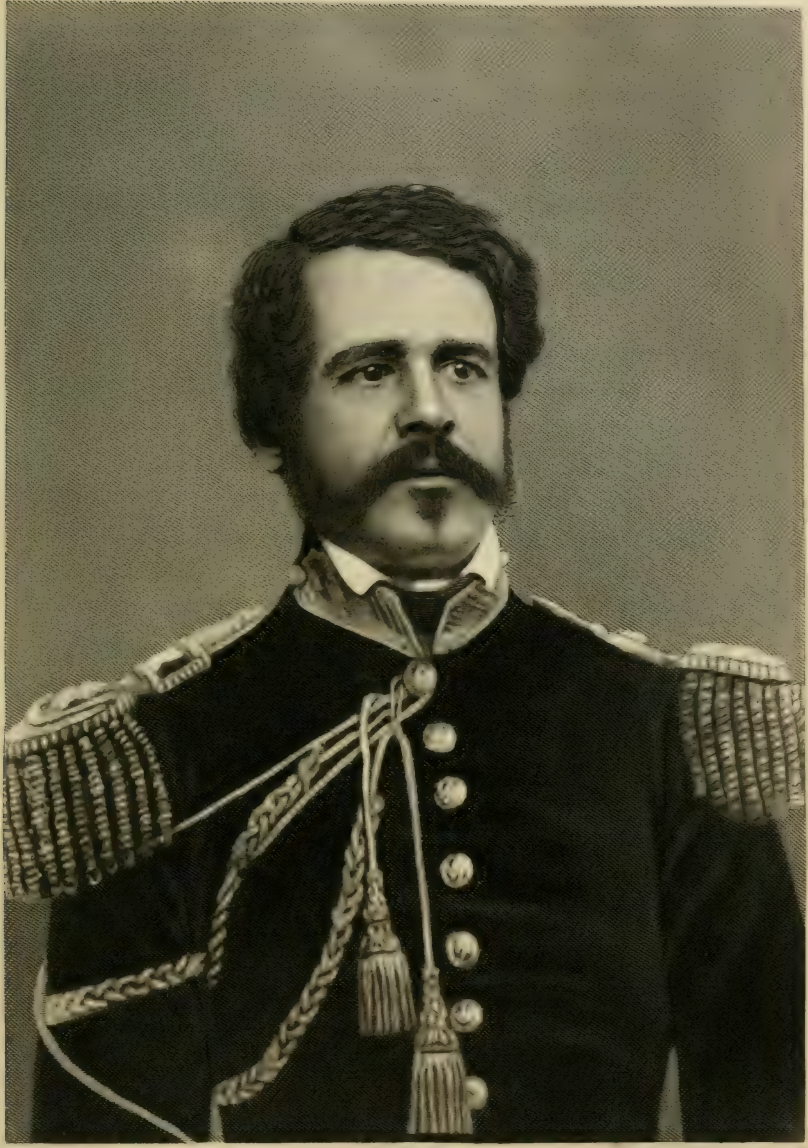


ANTONIO MARIA DE LA GUERRA

Born at Santa Barbara, October 1, 1825; died November 28, 1881; son of José Antonio de la Guerra y Noriega; member of California senate; several times mayor of Santa Barbara; in war of 1861-65, captain of California volunteers, serving in Arizona.

were lowered to August four regiments of infantry and one of cavalry were raised; under later calls three regiments of infantry, seven companies of cavalry to complete the First cavalry regiment, a battalion of cavalry composed of four companies of native Californians enlisted, besides six companies of mountaineers to serve against Indians in the northern counties, who were beginning to be more than usually troublesome.

When the first companies both of infantry and cavalry were enlisted it was expected that their principal duty would be to guard the line of the overland mail from the eastern boundary of the state to Fort Laramie [illegible] having been [illegible] and Texas; [illegible] learned [illegible] and Texas, probably with a view of [illegible] seizing [illegible], and they were sent to Los Angeles, and later [illegible] to New Mexico by way of Fort Yuma and [illegible]. This march was perhaps the longest and most [illegible] by any volunteer troops during the war. [illegible] led across the sandy wastes traversed by [illegible] and later by Kearny with a few regulars and the Mormon battalion. There were no railroads and all supplies as well as the sick had to be transported by wagons or pack trains. Water could be had only at irregular intervals, the wells and water holes being in some places from twenty to ninety miles apart. When mountains were crossed snow from a few inches to three and four feet deep was encountered, and men who had been suffering from the extreme heat of the desert were frequently nearly frozen. They were much



Antonio Mª dela Guerra



annoyed by the Apaches, Yumas, and Navajos with whom they had several skirmishes, and against whom they were required to be constantly on guard. This expedition was commanded by Colonel James H. Carleton, who had organized the First regiment, and who was promoted brigadier-general soon after the command passed Fort Yuma.

The Fourth, Fifth, and Seventh regiments were also sent southward, as was the Second cavalry, which fought a battle with Indians in Owen river valley for which it was particularly commended. The second battalion of the First cavalry, enlisted in 1863, went forward to join the regiment as soon as possible after it was mustered.

These troops in the southern country rendered excellent service, both against Indians and confederates, taking from the latter Forts Thorn, Fillmore, Bliss, Quitman, and Davis in Texas, as well as capturing several other points of importance. While they took part in none of the more famous battles of the war, they did some as good fighting as was done on more memorable fields, displayed as much valor, and suffered losses more severe in proportion to their numbers. Some companies of the First cavalry got as far east as Fort Dodge and Fort Larned in Kansas, up to which time they had marched over four thousand eight hundred miles, much of the distance through a most difficult country.

The Second infantry, or a large part of it was sent to Oregon, where it did good service against the Indians, and white outlaws who were more troublesome to the emigrants and settlers than the Indians themselves.

The eight companies furnished by California to the First Washington regiment were also engaged in this service. Later some companies of the Second were returned to Humboldt and Trinity counties where, with the Mountaineer battalion, they were engaged in the Indian war until finally sent to Arizona.

It fell to the lot of the Third regiment to guard the overland mail route, which it did effectively though somewhat grudgingly as its officers and men were particularly anxious to get service in one of the main armies east of the Mississippi. It marched to Salt Lake where its colonel, Patrick E. Connor, made his headquarters, fighting Indians when there was occasion, and the authorities for a chance to move his regiment to the east when there was not. The Indians had been making trouble on the emigrant route between the Bear and Humboldt rivers for a number of years before the regiment arrived, and early in January, 1863, killed some miners in the Cache valley northeast of the present city of Ogden. Colonel Connor resolved to punish them, and to do it so severely that their depredations would cease. Accordingly although the weather was extremely cold, he set out on January 25th, with a company of infantry, four companies of the Second cavalry, which were a part of his command, and two howitzers, and after a four days' march, during which seventy-nine of his men were disabled by frozen feet or hands, arrived near the camp of the enemy. This was in a mountain ravine, with steep, rocky sides and not easily approached from any direction. In such places as it was most easily assailable the Indians had built barricades of rock or wood. The attack began at

six o'clock in the morning by the cavalry, the infantry having been delayed at the crossing of Bear river until horses were sent back to assist them in fording its icy waters. Several soldiers were killed at the first fire, at which the Indians tauntingly defied them to come on and get more of their lead. The cavalrymen were compelled to endure their insults until the infantry arrived, when a flanking movement was made, by which the savages were subjected to a fire against which they had no protection. But for four hours they fought with desperation and two hundred and twenty-four warriors were found dead on the field when the battle was ended. Among them were three chiefs, one of whom had been shot while moulding bullets, and falling into the fire had been burned to a crisp. Pocatello, the principal chief, with about fifty warriors escaped, and a hundred and sixty squaws and children were left to be taken prisoners.

This battle put an end to the massacres of emigrants and relieved the settlers from the annoying raids from which they had suffered from time to time for a number of years. Connor lost fourteen men killed and forty-nine wounded, of whom eight died within the succeeding ten days. The command was highly complimented by the authorities in Washington and by General Wright the commanding officer of the department.*

Soon after the arrival of the regiment at Salt Lake Colonel Connor selected the site and began the construction of Fort Douglas, which is still maintained as a military post. It had been supposed when he was ordered there that the presence of his command might

*Orson F. Whitney, *History of Utah, Vol. II, p. 77-81.*

be required to keep the Mormons in subjection, but he found no occasion to employ it in that direction, the people of that sect having apparently forgotten or forgiven the warlike demonstration the government had made against them a few years earlier, and being at the time as loyal as any others. On September 24, 1862, Colonel Connor wrote to General Halleck that his regiment had now been in service a year, had marched six hundred miles and was well officered and thoroughly drilled; but it was "of no service on the overland mail route as there is cavalry sufficient for its protection in the Utah district. The regiment will authorize the paymaster to withhold $30,000 of pay now due," he said, "if the government will order it east; and it pledges General Halleck never to disgrace the flag, himself, or California. The men enlisted to fight traitors, and can do so more efficiently than raw recruits. * * * If the above sum is insufficient we will pay our own passage from San Francisco to Panama." This he signed, and doubtless with authority: "By order of the regiment, P. Edward Connor, Colonel commanding."

The regiment was never ordered east but Colonel Connor was promoted brigadier-general in March, 1863, and for some years afterwards commanded all the troops guarding the overland mail route as far east as the Missouri river.

The "California Hundred" was a select body of young men and good horsemen who, in order to secure service where the fighting was likely to be hottest, and who could and did pay their own expenses until they could get what they wanted, offered their services to

Massachusetts early in 1862, and were accepted, being assigned to the Second Massachusetts cavalry. The company was raised by Lieutenant-Colonel Ringold of the regular army. Its first captain was J. Sewell Reed, afterwards promoted major, and its second Archibald McKendry afterwards major and colonel. It took part in twenty-three battles, some of them the most famous of the war. Later the "California Battalion" composed of four companies, tendered its services to Massachusetts and became a part of the Second cavalry. Of the five hundred Californians who thus fought in a Massachusetts regiment, only one hundred and eighty-two were left to be mustered out at the close of the war.

The eight hundred Californians who served in the First Washington regiment did honorable service though of a less spectacular kind. These companies were scattered from Vancouver barracks to Fort Colvile in northern Washington, Walla Walla in its eastern part, and along the emigrant trail from the Columbia to the upper waters of Snake river in Oregon and Idaho.

The California volunteers, exclusive of these companies which served in the east and in the Washington regiment, did some of the hardest marching of the war, says a Vermont soldier who served in the Army of the Potomac,* and much of it "through deep snows and intense cold, as well as burning sands and torrid heat, and ranged over an extent of territory destitute of railroads, destitute of supplies, much of it arid, barren, and unoccupied except by Indians, one-third greater

*Charles A. Woodruff, Paper read before the Society of California Volunteers, October 25, 1893.

than that of the eleven states in rebellion." They garrisoned one hundred and sixty-two stations and cantonments in California, Oregon, Idaho, Nevada, Utah, Wyoming, Arizona, New Mexico, Texas, Washington, Colorado, and Kansas; they constructed eleven, and assisted in building three other permanent posts, some of which are occupied today. They had seventy-seven killed by Indians, thirty-five drowned in the treacherous but widely separated streams they crossed; twenty-one were murdered, and five hundred and one were killed or died of disease.

Some of the flags borne by these several organizations have been rescued from the moths and mice which, but for the thoughtfulness of a member of the Society of Volunteers, might long since have destroyed them, and are now shown in the rotunda of the capitol at Sacramento. Some of them bear the names of the battles in which those who carried them took part. But they are not all there. If the missing ones are still in existence it is to be hoped that they may be placed with the others to be an honor to the state and an inspiration to future generations.

There was still another regiment than those mentioned which did good service for which California is entitled to some, if not all credit, as it bore California's name for a long time at least. It was enlisted by Colonel Baker by special authority from the war department. When the first call for volunteers was made, it was clear to everybody that California's quota could not be available within the three months for which the volunteers were to serve, and Colonel Baker asked permission to raise in the east a regiment of men

who had been in California. This was granted and a full regiment was raised, principally in New York and Pennsylvania. At the first meeting held in New York on the day following the first publication of the notice that such a regiment was wanted, between two and three hundred returned Californians were present and signed the rolls. In Pennsylvania the returned gold hunters responded even more numerously and the ten companies were soon filled. Colonel Baker commanded the regiment until made a brigadier-general. It was long known as a California regiment, but later became the Seventy-First Pennsylvania.

But it was not alone by the volunteers it furnished that California proved its devotion to the union. Its mines helped notably to support the nation's credit. Had the gold and silver mined in the coast states during the years 1861 to 1865 been turned into the treasury of the confederacy—as it might have been but for the loyalty of its people and the work done by the California volunteers in Arizona, New Mexico, and Texas—the whole result of the war might have been different. The total value of the precious metals shipped out of the coast states during the years 1861 to 1864 inclusive, was $186,012,460.* This real money —or the material from which real money is made— was a factor of immense importance to the nation during the whole contest. It enabled it to pay the interest on its bonds according to agreement, thus restraining and limiting their depreciation, and vastly lessening the volume of debt incurred by its enormous expenditures. No one can estimate with any degree

*J. Ross Browne, *Resources of the Pacific Coast States and Territories*, p. 292.

of certainty the value of this sustaining force to the national credit, nor do more than guess how great the change would have been, had these precious metals gone to the south instead of the north; but it may well be believed that while the north was richer than the south at the beginning of the war in everything required to meet its enormous expense and waste, its bonds and circulating notes might have depreciated as rapidly, and in time become of as little value as those of the confederacy, had they not had this sustaining influence behind them.

Evidence is not wanting that the promoters of secession had not left California and the coast states out of their calculations. The Pacific republic had been planned by their sympathizers, who had long acted in harmony with them in congress, the hope of both being that once separated from the union these states and territories might more easily be persuaded to join the confederacy. Had this plan succeeded the national government would not have had their mineral wealth to sustain its credit, and the confederacy might, in time, have secured it.

As it was, more or less futile efforts were made from time to time to secure some part of the treasure for the confederacy; and finally the privateer *Shenandoah* was sent to the Pacific, but arrived too late to accomplish anything. Nearly two years before she appeared an attempt was made to start privateering on the California coast. Early in 1863 a letter of marque had been procured from Jefferson Davis and the *J. M. Chapman*, a schooner of ninety tons had been purchased for a cruise down the coast with the object of seizing one

of the Panama steamers. Having succeeded in this the steamer was to be turned into a privateer with which other steamers and the gold they carried were to be captured. A considerable quantity of arms, amunition, uniforms, and other warlike supplies had been taken on board, as well as a stock of merchandise intended to conceal the true character of the enterprise, and the ship was formally cleared at the custom house for Manzanillo. But as she cast off her moorings, on the morning of March 15th, she was overhauled by two boats from the sloop-of-war *Cyane*, lying in the harbor, and later a tug with revenue officers came alongside, by whom the whole piratical company were placed under arrest. Three of them were later convicted in the federal court and sentenced to serve a term of ten years in San Quentin.

One other attempt to secure California's gold for the confederacy was made on the night of June 30, 1864, when the stage from Virginia City was robbed of a considerable amount of bullion a few miles east of Placerville. The robbers gave the driver a receipt purporting to be signed by R. Henry Ingraham, a captain in the rebel service, and decamped, but most of them were afterwards captured. During the chase a deputy sheriff was killed for which one of the number was hanged and another sent to the penitentiary for twenty years.

The legislature of 1862 adopted resolutions heartily approving the policy of the government. During the session a movement was set on foot to unite the republicans and union democratic parties, as members of both were acting together harmoniously in supporting

the union; but Governor Stanford did not favor it, and some members of both parties opposed, thinking it unwise to give up their party organizations; and the election for that year was unimportant, as the only officer to be chosen was a superintendent of public instruction. But the movement so far succeeded that a call was issued for a convention of the union party, and such a convention was held. Three candidates were therefore named for the only office to be filled, and the union candidate was successful, receiving more votes than were cast for both the others. Soon after the election several prominent southern sympathizers, among whom were two members of the legislature, were arrested and sent to Alcatraz island, but were released on taking the oath of allegiance.

When the legislature met in January, 1863, the Emancipation proclamation had been issued, and it was soon apparent that some democrats who had hitherto acted with the republicans would no longer do so. The proclamation was, however, endorsed "as a part of the war policy, deemed proper and necessary by the commander in chief," by a vote of sixty-four to eleven in the assembly, and by a similar vote in the senate.

An effort was made to reunite the factions of the democratic party, and it was so far successful as to draw to the Breckenridge party those of the Douglas faction who were not inclined to approve emancipation. Only two conventions were held and two tickets put up in 1863. The union party declared that "any means necessary to be made use of to preserve the union are constitutional," and nominated Frederick F.



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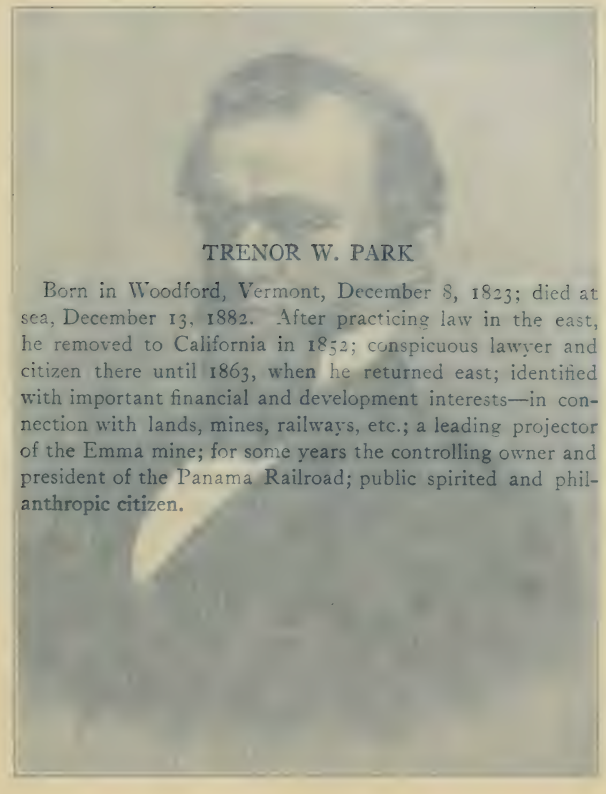
Low for governor, Stanford who had sought a renomination withdrawing at the last moment. The state was now entitled to three members of congress and Thomas B. Shannon, William Higley, and Cornelius Cole were nominated. The democrats nominated John G. Downey for governor; John B. Weller, John Bigler, and J. W. McCorkle for congress, condemned the Emancipation proclamation "as tending to protract the war, incite servile insurrection and inevitably close the door forever to a restoration of the union." It was therefore "for the constitution as it is and the union as it was." Low and the republican members of congress, as well as the entire union ticket were elected by a majority of nearly twenty thousand in a total of nearly one hundred and nine thousand votes. In the following year Lincoln carried the state by a majority of over eighteen thousand.

The senatorial contest in 1863, to elect a successor to Latham, was an exciting one. Latham who was serving part of the unexpired term of Broderick, had supported the union cause only indifferently. When elected he had favored a division of the state, and had been as well disposed toward the pro-slavery party as Gwin himself. Later he had professed to oppose secession, and had taken part in the great loyal demonstration in San Francisco on May 11, 1861. In the campaign of 1862 he had favored the prosecution of the war, but condemned nearly every means used for that purpose. Sargent and Phelps, members of the lower house, had replied to him so effectively that both were now regarded with more favor than he as candidates for his place. The other candidates were Trenor

W. Park, a republican like themselves, and John Conness, a union democrat. No choice was made for several weeks, during which much bitterness was developed and some charges of attempted bribery made, though none were proven. Conness was in the end elected.

California was among the first states to pay its proportion of the direct tax levied to carry on the war. The state treasurer, Delos R. Ashley, on his own authority, paid the first installment in treasury notes, which were then at a discount, and thereby saved the state something over $4,400. On learning what he had done Governor Stanford wrote the treasury department that the payment had been so made without authority; that the people of the state had paid the tax in gold, and had no desire to benefit at the expense of the general government; but he was assured in return that the national government had no desire to exact more from California than from any other state, and that the payment as made was entirely satisfactory. All subsequent payments were accordingly made in greenbacks.

While the state appropriated liberal sums to organize and provide for its volunteers until they could be mustered into the national service, its people contributed far more liberally to the Sanitary Commission. As soon as it was known that this beneficent organization had been formed to care for the sick and wounded soldiers in the field, all Californians took a lively interest in it. Reverend Thomas Starr King took a leading part in making known its objects and needs, and largely through his efforts organizations were formed to receive and solicit contributions in all parts of the state, and



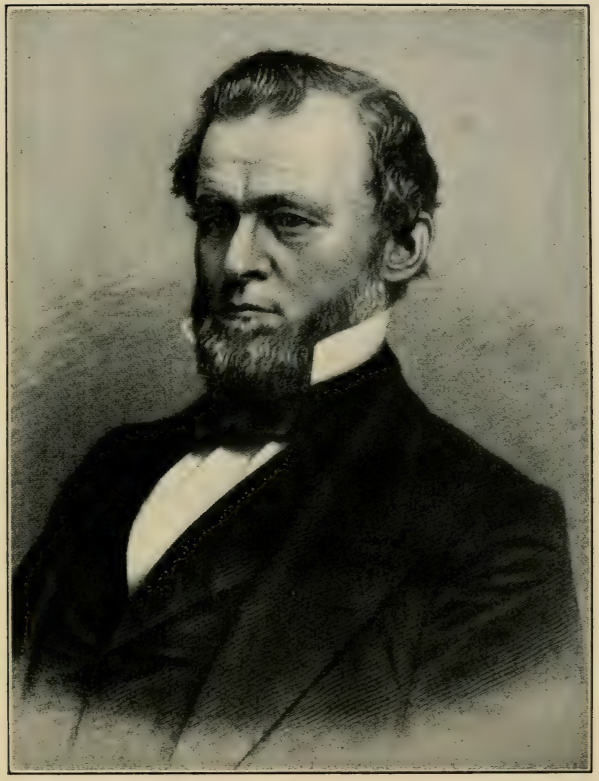
TRENOR W. PARK

Born in Woodford, Vermont, December 8, 1823; died at sea, December 13, 1882. After practicing law in the east, he removed to California in 1852; conspicuous lawyer and citizen there until 1863, when he returned east; identified with important financial and development interests—in connection with lands, mines, railways, etc.; a leading projector of the Emma mine; for some years the controlling owner and president of the Panama Railroad; public spirited and philanthropic citizen.

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California was among the first states to pay its proportion of the direct tax levied to carry on the war. The state treasurer, Delos R. Ashley, on his own authority, paid the first installment in treasury notes, which were then at a discount, and thereby saved the state something over $40,000. Governor Stanford, upon learning what he had done, wrote him a letter of censure, declaring that the payment had been made without authority; that the people were entitled to their taxes in gold, and had no desire to benefit at the expense of the general government; and he directed that the national government be informed that more from California than from any other state, and that the payment as made was entirely satisfactory. All subsequent payments were accordingly made in greenbacks.

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indeed all along the coast. At the first meeting held in San Francisco on September 6, 1862, $6,600 in gold was collected. Ten days later $160,000 also in gold, was remitted. In October still another $100,000 was sent, and again another before the end of the year. In October, 1863, Dr. Bellows of New York, chairman of the commission, reported that it was expending $50,000 per month, and its funds were running low; he asked if California would undertake to supply half the money needed. To this a reply was at once sent by telegraph that San Francisco would send $200,000 before the end of the year, and the remainder of the state would provide another $100,000. This promise was made good; San Francisco contributed the $25,000 per month asked for, while the remainder of the state did proportionately well, and when the work of the commission was finished, it was found that of the $4,800,000 which it had received in cash, California had provided nearly $1,250,000, or more than one-quarter of the whole.

CHAPTER V.

THE COMSTOCK LODE

"CALIFORNIA mature at eleven, plants a colony in 1859-60 which ripens into a new state in 1864. Nevada is the first child of California."

So wrote Samuel Bowles,* then one of the leading journalists of the country in 1865, after completing the journey from Massachusetts to San Francisco by way of Salt Lake and Virginia City, in company with Speaker Colfax of the house of representatives. Horace Greeley a still more famous editor, after making the same trip in 1859, had expressed the opinion that there were not at that time more than three hundred human habitations, mostly of logs,† in the whole territory that six years later was erected into a state. The great change was due largely to one of the greatest and richest ledges of gold and silver bearing ore that had ever up to that time been discovered.

Early in 1853 two brothers named Hosea Ballou and Ethan Allen Grosh, in the course of their wanderings as prospectors, crossed the mountains into what is now Nevada. They had come to California from Pennsylvania in 1849 and had been prospecting ever since. They were hunting, as all other prospectors were at that time, for placer diggings, wet or dry, from which gold dust or nuggets might be taken in paying quantity with pick and pan. They knew something about quartz, as most prospectors did, but were not particularly interested in such deposits further than that they might indicate the presence of loose gold in their vicinity. Few people in California were doing anything at rock

*Samuel Bowles, *Across the Continent, p. 139*, Springfield, Massachusetts, 1865.
†Horace Greeley, *Recollections of a Busy Life, p. 378*, J. B. Ford & Company, New York, 1868.

mining at that time, and the Grosh brothers had little thought of attempting work of that kind, being like other prospectors wholly unprepared for it.

But in a gulch on the north-eastern side of the highest peak of the Washoe range, then known as Sun mountain they came upon a curious ledge that impressed them as possibly valuable. The rock was of a kind they had not often seen before, if ever. It was quite unlike that which had attracted the attention of prospectors on the Yuba in 1850, had since been traced south almost to the Merced, and was now known the world over as the mother lode; but there was a vast amount of it and the brothers appear to have determined to learn more about it, before permitting the fact that they had found it to become too generally known.

They recrossed the Sierra Nevada to the scenes of their earlier prospecting enterprises for the winter, and during the three or four years succeeding made one or perhaps two trips to the great ledge, but always without the means of finding out what it contained. During their last visit, in the summer of 1857, one of them struck a pick through his foot and later died of blood poisoning, and the other was so badly frozen while returning to California, as to lose both his feet and then his life. Neither ever knew that they had discovered one of the richest silver mines in the world—a deposit so rich that within twenty years it would seriously disturb the relative value of silver to gold, and produce economic changes as great, or greater than those caused by Marshall's discovery.*

*Before the mines on this ledge were fairly opened in 1870 the world's output of silver amounted to about 8,000,000 pounds sterling. For the five years following 1870 it averaged 15,000,000 pounds, more than half of which was from Nevada. *Encyclopedia Britanica*—Article on money.

Three years before the Grosh brothers had found their way into the Carson river valley, a party of eighty Mormon settlers had arrived there. Some of them had found gold in one of the little streams flowing down from Sun mountain, and the deep rent in its side through which the little rill flowed had come to be known as Gold Cañon. But the Mormon hierarchy of that time discouraged mining, and these faithful sons of the church, having satisfied their curiosity, turned to the farming and stock-raising that had been and was to be the business of their lives, took up claims in the valley and thereafter paid but little attention to prospecting. A few years later they were joined by other members of their sect and had taken up and improved a large part of the tillable land in the vicinity.

But while they turned away from the temptation of the hills, more worldly minded people arrived who did not do so. There were other prospectors in the neighborhood when the Grosh brothers arrived there, and still others came and remained; but it was not until after the brothers were dead that the immense deposit of paying ore which had awakened their curiosity was rediscovered.

The ore from this lode was so different from that found on the west side of the Sierra Nevada, that these early prospectors did not for a long time guess its value. Even the Grosh brothers, who were studious and observing men,* had been puzzled by it. Among the

*Charles Howard Shinn, *The Story of the Mine*, D. Appleton & Company, New York, 1908. Mr. Shinn was fortunate enough to get what is apparently an authentic story of the discovery of the Comstock lode by the Grosh brothers, from Dr. R. W. Bucke, of London, Ontario, who was with them in 1857, and later had access to letters they had written home while prospecting in California and Nevada.

crumpled masses of it which had been worn away by the rains and winds of centuries, and had fallen into the cañon in which their prospecting was carried on, there were huge mounds of a grayish blue rock that did not seem to carry gold and yet gold was usually found in its vicinity. When the later prospectors began to use quicksilver in their cradles and sluices, this blue material took up their quicksilver and gave them nothing in return for it. Finally as they followed up the cañons and came upon the heaps of it near the northern and southern ends of the lode, they found the ground very rich, but this "blue stuff" was very much in their way. The first rich heap of this kind was found in Gold Cañon at the southern end of the lode and was called Gold Hill; the next was in Six Mile Cañon near its northern end, and from this the lead was traced to the lode itself on June 12, 1859. This was the place where the Grosh brothers had made their discovery two years earlier. It afterwards became world famous as the Ophir mine.

Two prospectors who were working together as partners made this second discovery, though their names are rarely mentioned in connection with it. They were Peter O'Riley and Patrick McLaughlin. They had hardly convinced themselves of the richness of their find when a ne'er-do-well fellow prospector, named Henry Thomas Paige Comstock, and generally known as "Old Pancake," who had been a teamster on every trail from the Missouri river to New Mexico and California, came along to congratulate them on their good fortune. In their simplicity O'Riley and McLaughlin showed this ex-teamster the results of their first day's

work, and being a resourceful fellow, he immediately claimed a share in their discovery on the ground that he had once purchased the ground from one Caldwell, an earlier discoverer. This Caldwell once owned the spring whose water they had been using, he said, and had built a sluice box, some remains of which were still visible; his title, evidenced by these remains and with it his right to sell, must be undoubted, and therefore he, Henry Thomas Paige Comstock, the purchaser must in fact be the rightful owner. Finding O'Riley and McLaughlin goodnaturedly disposed to yield to his pretensions, he claimed another share for his partner, one Emanuel Penrod, known among his fellow prospectors as "Manny," and after a little time it was so settled, the two prospectors who had found the claim giving up half of it to two others who had most likely never before heard of it.

The Washoe Indians in the neighborhood were disposed to be friendly and helpful, and by encouraging them with small presents and large promises, to do most of the heavier work these lucky gold hunters became fairly prosperous during the summer. Some days the four took out as much as $500 and $1,000 each in gold, and were throwing away several times as much in silver without knowing it; for the "blue stuff" bothered them greatly and they had as yet no hint of its value. But one day a plain farmer from the Truckee valley having heard of their good fortune, rode over to Six Mile Cañon, and after watching their operations for a little time began to make inquiry about the "blue stuff" they were finding so troublesome. They assured him it was valueless and even worse, making them no

end of trouble and expense; nevertheless he selected a few pieces and took them across the mountains to Nevada City to be assayed. Two assayers reported practically the same result—gold $1,595 and silver $4,791 to the ton.* The "blue stuff" was both a gold and silver bearing ore; it was rich in gold and at the same time carried silver of two or three times its value. There was even some silver mixed with the free gold which the miners had so far been finding in the placers; it was this that gave it its whitish color and reduced its value so far that the bankers at Placerville would pay only $13 per ounce for it, while they were readily giving $18 for that found in the placers of the American, the Yuba, and rivers further north.

No effort was apparently made to keep the results of these first assays from becoming public, and a rush of miners and prospectors from the west to the east side of the mountains immediately followed. One or two of the most enterprising left Nevada City on the evening of the very day the news became public. Within a few days the exodus was greater than it had been during the preceding year to Fraser river. All the roads and trails leading over the mountains, and particularly that through Placerville over which the Pony express came and went, was thronged with them. Before the year 1859 closed the new lode had been explored throughout its entire length—found to be between three and four miles—and every foot of it located. Claims were also staked for a long distance on either side of it. The country for many miles beyond was explored, and

*These are the figures given by Mr. Shinn. Hittell gives the result of presumably the same assays as gold $1,595 and silver $3,196.

although nothing so valuable as the first find was discovered, other promising prospects were found, particularly on Reese river, nearly two hundred miles further east, as well as at White Pine and in other places. Nevada, still a part of Utah, speedily became in effect a part of California, through the enterprise of the Californians who had taken possession of it, and were soon turning its wealth into their own state.

Development of the new mines was fairly rapid considering the difficulties encountered and the inexperience of those who found them. At first the exposed part of the lode, more or less decomposed as it was by exposure to the elements, was easily removed, beaten to pieces with picks, shovels, hammers or anything the prospectors found ready to their hands, and the powdered material run through their rockers.

As their pits deepened and the rock grew harder, rude arastras,* of the kind the Mexicans had long used, were constructed to grind it and prepare it for washing. A windlass with wooden buckets was brought into use to hoist the mineral out of the pit, one or two men doing the hoisting while another did the mining. As still greater depth was reached a mule was made to do the hoisting. Finally a steam engine of fifteen horse power found its way to the Ophir mine in 1860 or '61,

*An arastra was made by surrounding a bit of flat rock or paved floor a few feet in diameter with a low curb. To a post firmly planted in the middle of it a sweep, one end of which projected beyond the curb was firmly fastened, and to this end a mule, or sometimes two mules were attached; to the shorter end a heavy stone weighing perhaps five hundred or a thousand pounds was so fixed as to drag on the floor. When ready for operation the floor was covered with quartz broken as fine as it conveniently could be with hammers, and as the stone was dragged over it the quartz was gradually reduced to powder. Near the end of the grinding process water was poured on the mass until it became paste, when it was put through the rockers, the gold and some of the silver also being taken up by quicksilver.

the first machine of the kind in Nevada, and the precursor of many others, some of which were the most powerful that had ever been built up to that time.

Every stroke of the pick on the wonderful lode increased confidence in its wealth, and the effect on California soon began to be exhibited in many ways. The miners who hurried across the mountains in greater numbers than they had ever before gone to new and promising regions, required to be fed, clothed, and furnished with the tools and implements of their craft. Lumber would be required in immense quantity to build homes for them and timber the mines as they should be developed. New and improved machinery would be needed, in ever increasing quantity, to lift the ore from deepening shafts and extract the gold and silver from it. Machinists and artisans to erect mills, scientific men to determine so far as they might from the surface indications the trend of the lode—its deviation from a perpendicular line in either direction—to invent means for supporting the rock and earth when the mineral should be removed from beneath it, and better methods of reducing the ore when brought to the surface; men to provide means for developing the mines until they should pay their own expenses, as well as men to work with pick and shovel and men to direct them, would all be necessary; and with them all the multifarious craftsmen and tradesmen who would supply the wants of those who were otherwise profitably employed, would find opportunity for profit.

The first and most urgent need would be for food. The Mormon farmers and stock raisers had been recalled to Salt Lake in 1857, and obedient to the call they had



LOS ANGELES
A Residence street

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abandoned their farms and farm buildings, carrying only so much of their property as was portable. Supplies for thousands must be sent over the mountains and roads must be made before they could be sent by other means than pack animals. Tools, clothing and other supplies could go up the river from San Francisco to Sacramento by boat, thence by the Sacramento valley railroad to or near Folsom. Beyond Placerville there was some sort of road; some of the immigrants had been coming over it since 1849 and Mr. Greeley had come that way by stage in 1859, worrying much during the early part of the journey lest he should not arrive at Placerville in time to keep a lecture engagement, and more during the latter part lest he might arrive, if he arrived at all, much earlier than its people would be looking for him. This road was soon made well nigh impassable by grinding wheels, and the hurrying feet of men and animals that were crowding to get over it. The winter of 1859-60 had been unusually severe, and even "Snow Shoe" Thompson, one of the famous parcel carriers for Wells, Fargo, & Company, could hardly make his way over the range with news that the store of supplies of the miners was gradually failing, and there was no hope for relief for them but from California. Stores of flour, bacon, beans, sugar, and coffee were sent forward in February as far as pack mules could flounder through the snow with them, and men worked and struggled as bravely as others had thirteen years earlier to relieve the gaunt and famishing remnant of the Donner party. Finally blankets were spread on the yielding snow and the loaded animals led for many miles over them until the summit was passed.

J. Ross Browne made a trip to the new mines early in 1860, and wrote entertainingly of his own experience, and that of others who like himself were determined to be among the first to get through.* He found Placerville crowded with miners who were unable to find transportation for themselves or their goods. The road which had been partly graded as far as Strawberry Flat near the summit, had been so cut up by the melting snows and early rains as to be impassable for wheeled vehicles; saddle horses and pack animals could hardly pick their way over it in places. All the stores and warehouses, and even the streets were piled with goods awaiting transportation. Horses and mules were bespoken for days in advance; and so like many others Browne set off to make the journey on foot. He was six days on his way to Carson City. All along the way he found loaded wagons with broken wheels, poles, or axles, often half buried in mud, and abandoned by their drivers. Trains of pack animals picked their way from one dry spot to another, or floundered in the mud. Other trains of horses with empty saddles, or mules carrying bags of ore, were met coming from the other direction; and when the meeting occurred on a narrow part of the trail some were crowded over steep places into the cañon.

One of the first and most urgent needs of the time was to make this road passable, and this was speedily done. Later as the mines were developed and the need for supplying them with heavy machinery, as well as with more certain and rapid communication with the sources of supply became apparent, competent engi-

*_Harpers Magazine_ for December, 1860, and January and February, 1861.



LOS ANGELES

Fifth and Hill streets. The building on the corner is the California Club.

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* Browne, Report on Mineral Resources, 1868, and Harper's Mag. 1861.





neers were employed to reduce the grade to a minimum, to increase its width, provide turn outs and turning points, and where necessary wall them up with stone; and finally to macadamize the surface so that the heaviest loads might pass over them with the least resistance. Bridges of substantial character were built where necessary, and finally the whole road was frequently watered in summer, and kept clear of snow in winter—all at the expense of the builders who collected toll from everything that went over it. It was over this road that trains of two and three broad tired wagons, drawn by twelve, fourteen, and sixteen mules, and loaded with the stamps, drills, pumps, engines and other heavy machinery, followed each other continually. Over it went also men on foot and on horseback, men with wheelbarrows transporting their own outfits, men in light or heavy carriages of their own, farmers with their produce and droves of sheep, hogs, and cattle, as well as those famous stages of the Pioneer line, drawn by six of the finest horses procurable, and driven by the Hank Monks, Curly Dans, and Curly Bills who could turn the six at a gallop in a city street, and bring the coach to a stop with its door in front of the steps of the stage office.*

The schedule time from Sacramento to Virginia City —one hundred and sixty-two miles—was three days in

*Speaker Colfax and his party consisted of Schuyler Colfax, Samuel Bowles, editor of the Springfield "Republican," William Bross of the Chicago "Tribune," who had been lieutenant-governor of Illinois, and Albert D. Richardson of the New York "Tribune." Mr. Bowles says of this part of the trip: "With six horses, fresh and fast, we swept up the hill at a trot and rolled down again at their sharpest gallop, turning abrupt corners without a pull-up, twisting among and by the loaded teams of freight toiling over into Nevada, and running along the edge of high precipices, as deftly as the skater flies or the steam car runs; though for many a moment we held our fainting breath at what seemed great risks or dare-devil performances. *Across the Continent, p. 166.*

1860, says Mr. Shinn, but by 1863 it had been reduced to eighteen hours, and passengers could go through, if they wished, without stopping. One party was driven over the line in twelve hours and twenty-three minutes, but this was by a special arrangement. The stage company kept six hundred horses, and according to the Sacramento "Union" there were employed on the line in 1863, 2,772 teams with a total of 14,652 animals. It was estimated that eighty-eight million pounds of freight went over the road in a single year.

In time other roads were opened, but this long remained the principal artery of supply for the Washoe district. The promoters of the Central Pacific railroad early began to open a way from Dutch Flat to Virginia City, and after the railroad reached the former point, a large part of the trade was diverted to that route. Still another ran by way of Nevada through Henness pass, and there were others leading into one or the other of these, by which farmers, fruit growers, and producers of various sorts could send their products or their wares to Virginia and Carson cities. There was not an industry in middle California that did not feel a strong quickening impulse from the development of the great lode, and even those in its remoter parts got some benefit from the increased demand for what they could supply.

The original claimants sold out their prospects to the first speculators to arrive, and usually for very small amounts. McLaughlin is said to have got $3,500, Penrod $8,500, Comstock $11,000 and O'Riley $40,000. All spent their money freely and were soon as poor as they had ever been. Comstock managed, with his

usual bluster to convince some that he was the discoverer of the lode, and so to attach his name to it, and as a town grew or began to grow up on it, it was named for one of his cronies known as "Old Virginia," but about whose lawful patronymic there will always be some doubt. It was in these early days, also, that the name of Sun mountain was changed, becoming Mount Davidson, in honor of a San Francisco banker and agent for the Rothschilds.

Of the thousands of claims located only about twenty ever became mines, and some of these never paid dividends. The famous few that produced ore in fabulous quantities were located on the outcroppings of the lode. From these selected ore was at first sent to San Francisco where it was reduced at some profit, although the cost of shipping the first forty tons was $24,000. As rapidly as possible stamps, settling pans, engines, boilers, and other machinery were sent over the mountains. Between June 12th and August 11, 1860, twenty-four stamps were in operation. Three days later another mill with nine stamps was started, and by the end of 1861 seventy-six mills with eleven hundred and fifty-three stamps were in operation. These mills were enlarged and others added from time to time until they were capable of crushing and treating more than fifty-seven thousand tons of ore per month, and their engines, with those employed at the mines, had a combined capacity of twenty-one thousand horse power.

As development of the lode progressed four principal needs became apparent—for wood, water, lumber, and improved machinery. In the whole Washoe region there was little wood and less water. As the miners

sunk their shafts deeper and deeper on the lode, and extended their drifts and cross-cuts on the various levels, the need for stronger timbers to retain the walls and support the immense weight of earth and rock above them increased. There had been much need of lumber to build houses when the first rush of miners came, and there was greater need now that mills and shaft houses were to be built. The early saw mills had cut away most of the nut pines growing in the cañons and ravines, and had there been more of them, they would no longer have served in places where the demand was largest and most urgent. A time came when eighty million feet of lumber went annually into the chambers and drifts of the lode, besides hundreds of thousands more that were required for buildings above ground; and two hundred and fifty thousand cords of wood were burned under the boilers that supplied the power to keep mines and mills in operation. This vast supply could not be hauled over the mountains in wagons—though where particularly strong timbers were procured from Oregon and Puget Sound they were transported in that way. There was good timber on the eastern wall of the Sierra Nevada, and this was cut and hauled to the mills near the mines for a time, but the process was too expensive. The cost of road making was enormous and the winter rains made the cost of repair and rebuilding almost as great, so fluming was resorted to. A "V" shaped trough, deep enough to carry logs of considerable size, and in one case fifteen miles long, was built along the mountain side by a more or less regular incline; so that when filled with water from a mountain stream, whatever was put into it, whether



SAN DIEGO

Scene on Fifth street. Photograph by H. C. Tibbitts, Sunset Magazine.

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logs, lumber, or cord wood, went flying through it to the lower end, where it was landed without much damage; thence it was hauled to the mines in wagons. There were ten of these flumes in operation in 1880, with a total length of eighty miles. Two million feet of lumber had been used in constructing one of them, and thirty-three million feet, besides one hundred and seventy-one thousand cords of wood had passed through them that year.

Water to supply the city was also brought from the Sierra Nevada, much of the way in an open flume, though at one place a valley nearly seven miles wide and seventeen hundred and twenty feet deep had to be crossed, requiring an inverted siphon of steel pipe that could withstand a pressure of eight hundred pounds to the square inch at the deepest part. This was devised, and by it the valley was crossed successfully.

There were eighteen paying mines on the lode from which the ore was hoisted through perpendicular shafts, or in places through inclines that followed its dip; and as they sunk deeper and deeper with their shafts, crosscuts, and tunnels extending for many miles, the difficulties of miners and managers increased. The lode was wider than any with which mining engineers of the time were acquainted—in some places nearly a thousand feet. Not all of the mass between the walls was paying ore, but much of it that did not pay required to be removed. In all, or nearly all the mines, bonanzas were found—masses of very high grade ore of lenticular shape, hundreds of feet in length, by two or three hundred feet wide at the broadest part and five or six hundred deep. This ore was generally so soft that pillars of it could not be left to support the mountain mass above it.

The utmost cunning of the ablest engineers was required to devise means, even with the strongest timbers, to prevent the walls and roof from closing in as these great masses were removed—to replace them when they were crushed by the enormous pressure, and to guard them from fire. At the same time another and equally persistent obstacle was to be contended with. Water, of which there was a dearth at the surface, was superabundant in the lower levels. It seeped through the walls on all sides, and sometimes burst into the tunnels in floods when some miner, unconscious of his danger, struck his pick through the wall of a hidden reservoir. Worst of all, this water was hot, and grew hotter as greater depth was reached. It could only be got rid of by pumping, and pumps of increased power were continually in demand. The little engine of fifteen horse power that had first been sufficient for all purposes in the Ophir mine near the north end of the lode, was in no very great while replaced by one of forty-five, and that in turn by others until machines of two hundred, five hundred, and even one thousand horse power are in use in the mines.

Many of these powerful pumps and engines, as well as other appliances used on the Comstock, were invented to meet its needs, and the building of them gave employment to large numbers of men. It also gave an immense impetus to the growth of the machine shops of San Francisco and the cities of the interior, many of which had profitable part in it.

It was early seen that a time must come, if the bottom of the lode was not reached, when pumps could no longer relieve the mines of water; and a man not

then supposed to know much about mines or mining proposed to build a tunnel nearly four miles long, from the floor of the Carson valley to strike the lode some eighteen hundred feet below the surface. This man was Adolph Sutro, and his tunnel was not only to drain the mines, but permit the ore to be taken out through it. The mine owners at first approved his plan, and made contracts agreeing to pay him two dollars per ton royalty on all the ore mined. With these contracts Sutro, who then had no capital of his own, set to work to raise the $4,000,0000 or $5,000,000 that the tunnel would cost. A company was organized and authority procured from the state of Nevada, and the national government, to proceed with the work. All seemed to be proceeding favorably until those in control of the mines suddenly changed their minds, revoked their contracts and determined to oppose the undertaking.

Sutro was now left alone to proceed with his work, and he must thenceforth encounter opposition where he had expected assistance. The capitalists in New York and elsewhere, with whom he had opened negotiations, refused to consider the matter further. He applied to congress for a loan or to guarantee his bonds and for a time seemed likely to succeed, but other matters prevented favorable action. He went to Europe to consult bankers who were favorably inclined toward American investments, but for a long time found more opposition than encouragement. Finally he returned to Virginia City and appealed to the miners who worked in the drifts and tunnels, telling them how much his tunnel would lessen the terrible heat in which they were compelled to work, and the

dangers to which they were exposed. The miners raised $50,000 by small contributions to be paid regularly from their wages, and with this Sutro began work in October, 1865. Later he was able to secure $1,450,000 from some English investors and work was pushed more vigorously. It had been planned to sink four shafts along the line of the tunnel and to push the work in both directions from each of these as well as from the outer end; but so much water came into the two nearest the lode that no pump could keep them clear of it and they had to be abandoned; and the other two were often rendered useless by the same cause. New means were invented to expedite the work and during 1875 and 1876 a monthly average progress of over three hundred feet was made.

Meantime men in the mines were suffering more and more from increasing heat, and the cost of pumping steadily advanced. New inbursts of water sometimes flooded the lower levels exposing the miners to greater dangers; occasionally a pump broke down and the rising flood drove them from their work while the increased heat made the air stifling. Tons of ice were sent into the mines daily. In some of the leads men could work only for a few minutes at a time; frequently one or another would be overcome by the heat when they would be carried by their companions to places of safety.

In the tunnel conditions were almost equally trying. As the work neared completion the temperature rose to 114° at the end nearest the mines. At last the men deep down in the lowest levels began to hear the blasts by which the rock was blown down in the tunnel; then



SAN DIEGO
The Plaza

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they could hear the drills at work, and finally on July 8, 1878, a way was opened into the mines through which Sutro himself was first to pass.

The great work was at last finished after nearly nine years of persistent effort. The mine owners still insisted that they had no need for and would not use it; but a few days later a great pump in one of the mines broke down and the whole lode seemed about to be flooded. Hundreds of men were set to work to turn the water into the tunnel, but Sutro quickly erected a bulkhead and stopped them. Nature was now working on the side of the tunnel builder and his victory was speedily won. A compromise was effected and the tunnel began to perform the work for which it had been created.

The early prospectors of claims on the Comstock sold interests in them to later arrivals at steadily advancing prices. The rules made by the prospectors themselves had fixed the size of claims at fifty feet square. Speculators bought a number of these claims, consolidated them under new names and sold them by the foot measured on the lode. Gould, one of the early owners of Gould and Curry, which later yielded more than $15,000,000, sold his interest for $450, and boasted that he had got the best of the San Francisco speculators. He lived to see the property selling for more per inch than he had received for his half interest. Speculation in feet and inches soon became so active and exciting in Virginia City that it went on night and day. Ross Browne, who had secured accommodations at the principal hotel on arriving—the accommodation consisting of space enough on the floor of a saloon to wrap himself in his own blankets—found himself unable to sleep

because of the noisy buyers and sellers, and betook himself to a prospect hole in the side of Mount Davidson where there was less noise and the bed equally soft. As the speculating went on, men were at work on the lode in ever increasing numbers, and all they did increased confidence in its richness. Its fame spread rapidly and people who had no desire to visit it began to seek opportunity to share in its prospective wealth.

There were at the time a few brokers in San Francisco who dealt in city scrip, steamboat, railroad, wharf, and gas stocks; and sometimes a customer would apply to one of them for a few feet in some mining property. They had as yet no regular place for trading, but when one of them got an order to buy he hunted among other brokers' offices until he found some one who wanted to sell.* Customers for interests in the Comstock soon became so numerous that the San Francisco Stock and Exchange Board was organized on September 11, 1862, with forty members. Two other boards were organized later, but the Exchange board became and remained for several years one of the famous institutions of the country. For a time its members continued to buy and sell mines by the foot, but as mining companies were one after another incorporated, interests in them were bought and sold by shares only. When the mines began to pay dividends confidence in their shares increased, people of all classes began to trade in them, and the business of the board ran into millions every month. Other properties than mines continued to be dealt in, though mining shares were chiefly bought and

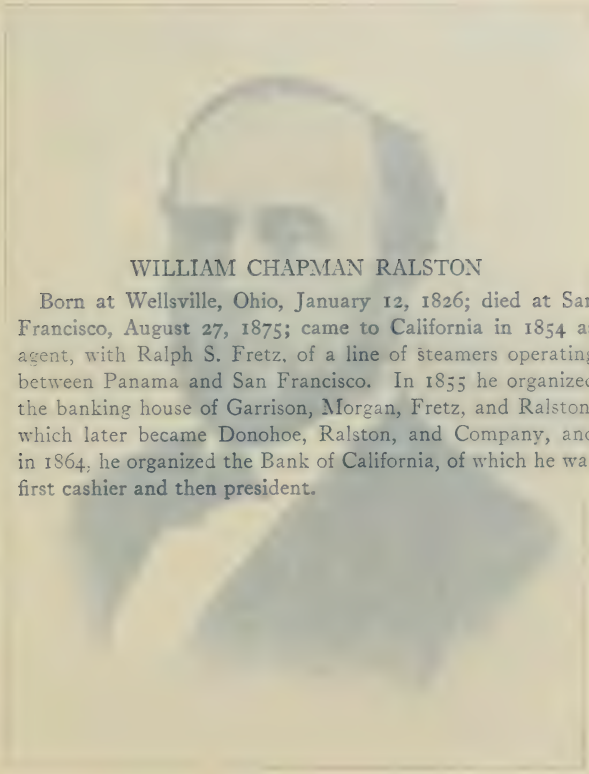
*Joseph L. King, *History of the San Francisco Stock and Exchange Board*, San Francisco, 1910.

sold. Everything bought was paid for in gold or silver, and during the years when greenbacks were at a discount, and the Gold board in New York became famous, the San Francisco board sometimes bought and sold greenbacks.

When the telegraph lines reached Virginia City and were finally completed across the continent in 1861, news from the Comstock was received almost continually and sometimes it greatly affected the prices of stocks. When a bonanza was struck in any mine the price of its stock went up rapidly and that of others in its neighborhood was generally improved. When adverse news came it naturally had a depressing effect and those who had bought at high prices lost money; but even those who lost most heavily usually did not give up speculating as long as they could find money enough for a new venture.

In June, 1864, the Bank of California was organized with a capital of $5,000,000 and with William C. Ralston its cashier and principal executive officer. Soon afterwards William Sharon went to Virginia City as its representative and opened a branch office there. Money had been loaned up to that time to the mining and milling companies at an average rate of three per cent a month, but Sharon offered it in large sums at one and one-half and soon took the larger part of the business. Then he began to acquire stamp mills, some by purchase and some by the failure of their owners to repay advances he had made to them—and in time organized the Union Mill and Mining Company which reduced a large part of the ore produced by the largest mines. He also acquired the city water works and

built the Virginia and Truckee railroad, connecting Virginia City with the Central Pacific at Reno. Backed as he was naturally believed to be by the bank and its numerous wealthy patrons, he became the most powerful factor in the development and exploitation of the great lode. His control of mills and reduction works brought him into close relations with the mines, and gave him unequalled facilities for finding out at the earliest moment any change in their prospects. He had been a member of the stock board in San Francisco and this information he well knew how to use. Brokers and other people interested in the rise and fall of stocks —and these at one time comprised nearly all the people in San Francisco and central California—knew this, and watched as eagerly for every circumstance that might give some indication of what he or those associated with him were doing in the market, as for any news that might come direct from the furthest working in the mines. When the bank crowd—as Sharon and those who usually operated with him came to be known —were found to be buying the stock of some property, it was assumed that they would seek to control, and that meant that it was worth controlling, or would be, and those who made the discovery would buy. But those who did so did not always win. There was a contest for Hale and Norcross in 1868, when the property was still sold by the foot, and the price rose from $2,825 to $7,100 in a single week; a month later the price had fallen to $2,900. At that time, says Mr. King, the saying that "when giants are striving for the mastery it is wiser for small fry to stand on one



WILLIAM CHAPMAN RALSTON

Born at Wellsville, Ohio, January 12, 1826; died at San Francisco, August 27, 1875; came to California in 1854 as agent, with Ralph S. Fretz, of a line of steamers operating between Panama and San Francisco. In 1855 he organized the banking house of Garrison, Morgan, Fretz, and Ralston, which later became Donohoe, Ralston, and Company, and in 1864, he organized the Bank of California, of which he was first cashier and then president.

built the Virginia and Truckee railroad, connecting Virginia City with the Central Pacific at Reno. Backed as he was naturally believed to be by the bank and its numerous wealthy patrons, he became the most powerful factor in the development and exploitation of the great lode. His control of mills and reduction works brought him into close relations with the mines, and gave him unequalled facilities for finding out at the earliest moment any change in their prospects. He had been a member of the stock board in San Francisco and this information he well knew how to use. Brokers and other [illegible] and fall of stocks —[illegible] all the people in San Francisco [illegible] this, and watching [illegible] that might give [illegible] associated with [illegible] any news that might come direct [illegible] working to the mines. When the [illegible] and those who usually operated with him came to be known — were found to be buying the stock of some property, it was assumed that they would seek to control, and that meant that it was worth controlling, or would be, and those who made the discovery would buy. But those who did so did not always win. There was a contest for Hale and Norcross in 1868, when the property was still sold by the foot, and the price rose from $2,825 to $7,100 in a single week; a month later the price had fallen to $2,150. At that time, says Mr. King, the saying that "when giants are striving for the mastery it is wiser for small fry to stand on one





side," passed into a proverb among the stock speculators. There was a similar contest for Ophir in 1874 and in various other mines at other times.

Bonanzas had been found in several of the mines during the first ten years after active operations began on the lode, but none had been found in Crown Point. John P. Jones, afterwards senator from Nevada, was superintendent of this mine, and its principal owner was Alvinza Hayward, who was his relative. Jones had had some mining experience in northern California, and Hayward had made a fortune by persistently following a lead in Amador county, long after everybody else had declared it could never by any possibility prove to be a thing of value. Some paying ore had been found in Crown Point when it was opened but later its drifts and tunnels ran mainly in barren rock. Dividends ceased and assessments followed. The stock became almost unsalable, and notwithstanding the fact that the machinery in the mine had cost $140,000 the total value of the stock was only $24,000. But late in 1870 a cross-cut on the 1,100 foot level entered a soft gray quartz that proved to be very rich. It was struck again by a cross-cut one hundred feet lower, and eventually proved to be the richest of all the bonanzas so far found. The stock that had been so little sought advanced to $1,825 per share, and by May, 1877, the mine had yielded nearly $25,000,000.

But the greatest of all the bonanzas was not yet discovered. Twelve so far had been found, some of them vastly rich, but one still remained hidden in the lode that was to eclipse them all—to yield nearly one-third of its total product.

Among the miners who had crossed the Sierra Nevada soon after the wonderful richness of the Comstock had been reported were two who would make the most of the opportunities the lode had to offer. They were John W. Mackay and James G. Fair. Neither had any money, or at least not much. They were merely practical mining men, so far as men had found opportunity to become practical at that time, when quartz mining was but little understood in California or elsewhere. They worked with other miners in the shafts and tunnels, but kept their eyes open for indications that would be of value in leading to the discovery of richer ore; saved something from their wages and bought stock in such mines as seemed to be most promising. Their employment and their acquaintance among other miners gave them opportunity to find out much about all the mines and they knew how to make the information valuable to themselves and their associates.

Interested with them then or later were James C. Flood and William S. O'Brien, who then owned and kept a saloon in San Francisco, but had an inclination to speculate in mining stocks, and knew the value of having reliable information to guide them in making their ventures. As time progressed the firm, as it was known, bought and sold with profit and owned considerable interests in some of the most profitable properties.

Previous to 1872 there was a part of the lode 1,310 feet long lying between mines that had paid well, both north and south of it, and on which considerable money had been spent by various owners without finding anything of much value. Fair and Mackay bought up this property and organized with it the Consolidated





THE "BONANZA" FIRM

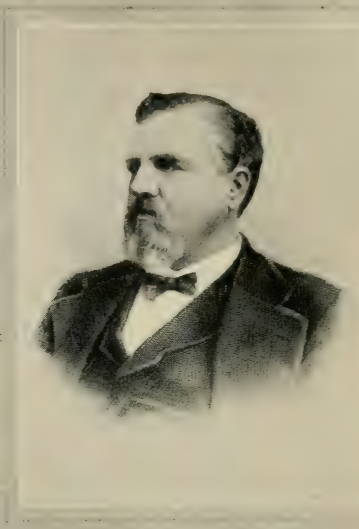
John W. Mackay	James C. Flood
James G. Fair	Wm. S. O'Brien

Mackay was born at Dublin, Ireland, November 29, 1831; Fair was born at Clougher, County Tyrone, Ireland, December, 1831; Flood was a native of New York; O'Brien was born in Ireland.

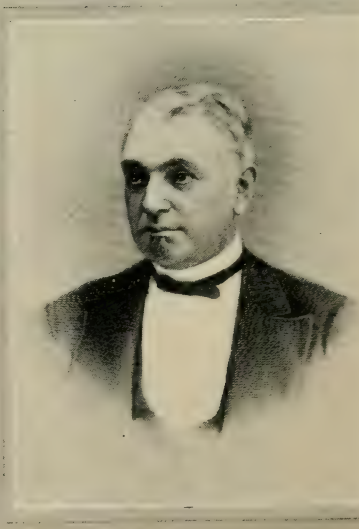












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Virginia Mining Company. They had a tunnel driven from the Gould and Curry mine through the Best and Belcher—which they and Flood and O'Brien controlled—into this property at a depth of 1,167 feet, and found in it a body of surprisingly rich ore. Without making their discovery known they divided the property into two companies, the Consolidated Virginia and California, with 108,000 shares each. They sunk a shaft to meet their tunnel from the Gould and Curry and at a depth of 1,500 feet encountered the ore body, which a cross-cut showed to be growing wider, while some of the ore assayed $630 per ton.

No effort appears to have been made so far to encourage trading in the stock of either the Consolidated Virginia or California; but the fact that a body of paying ore had been struck was known, and the stock of the former advanced to $115 per share, making the value of the mine $13,570,000. One month later the stock sold at $610 per share, and that of California at $780; making the total value of both mines in the market $159,840,000.

The ore body extended well through both mines, and was not only the largest but the richest that had been struck. The main difficulty about removing it was to find means to support the ground above it when the ore was taken out, though the work was much hampered by water, which came into the mine very hot and the miners suffered very much in consequence. Immense quantities of the heaviest timbers were used. Skilful engineers piled them in huge pyramids, in such manner as to best resist the strain, and yet there was often danger of their giving way. The work of quarrying and

removing the ore was pushed to the utmost. Twelve thousand tons had been taken out in 1873; in 1874, 91,000; in 1875, 169,000; and in 1876, 142,000. Then the output began to lessen. During six years, however, bullion to the value of $60,732,882 had been taken from Consolidated Virginia and $43,727,831 from California; the two mines had paid in dividends $73,170,000.*

Meantime all classes of people in San Francisco and many other places in California, and even beyond it, had been buying and selling stocks. At every session the stock exchange was the scene of intense activity and excitement. Men of means—merchants, bankers, and business men in all lines—bought largely, while clerks, laborers, teamsters, and servant girls bought what they could. A few sold while they could do so with profit, and thus secured a moderate competence, or perhaps even wealth; many refused to sell even at the highest prices. Mr. King tells of a man named Sullivan who owned a hundred shares of Consolidated Virginia which he had bought at $8 per share; one day Mr. Flood offered him $680 per share for them, which, after a night's reflection he decided to accept, saying that a check for $680,000 seemed like a pretty large one. On the other hand a coachman, who at one time held stocks to the value of more than $1,000,000 refused to sell and finally was as poor as when he began.

During the years—from 1861 to 1879—while the Comstock mines were most productive, most of them were involved in litigation. The Ophir mine at one time was plaintiff or defendant in thirty-seven suits, Yellow Jacket had thirty-two, Savage, twenty-nine,

*These figures are Mr. Shinn's.

Gould and Curry, twenty, while other mines had from nine to seventeen. Most of these involved the title to all or considerable parts of very valuable properties.

The early prospectors had made laws or rules, according to the custom of the time, for the government of the camp. These had fixed the size of claims and the method of marking and describing them; and a recorder had been appointed to make a record of these descriptions. But it happened that the recorder had been a very careless personage, who had been accustomed to leave his record book at the saloon he chiefly patronized, where prospectors having claims to record took such liberties with it as seemed good to them. Sometimes they changed the descriptions previously recorded, and sometimes they tore out a leaf or two if to their advantage to do so. In this way titles and descriptions became very much involved. There was conflict also between American and Spanish law, or rather custom—for it can hardly be said that there was any law to govern the matter at the time—as to the rights of claimants who had made locations in a true fissure vein or lode. Such veins rarely if ever stand upright, but incline to one side or the other as they descend, and this inclination is called its dip. Under the American law or custom the locator claimed the right to follow the vein wherever it led; under the Spanish law he was entitled only to such part of it as lay beneath the ground included within the limits of his claim as recorded. The first locators on the Comstock had included as much as possible of its visible outcroppings in their claims; after it had all been so

taken up, others came who filed claims on either side of them, expecting that the vein would dip either in one direction or the other, and hoping it might dip under their locations. It did in fact dip in both directions—first to the west toward Mount Davidson, to a depth of two or three hundred feet, and then toward the east so far as it has ever been explored. It also had angles and spurs, offshoots or splinters from the main vein, and title to these was hotly contested. Some of the ablest lawyers in California* were employed in these suits, and in the end they were passed upon by able judges. As a result the mining laws, so far as they pertain to the kind of mining followed on the Comstock, were for the first time permanently fixed and defined.

When systematic work on the lode began but few of the machines which miners now use for extracting and reducing the ore had been invented and methods of saving the gold and silver it contained were crude indeed. Many if not most of the really useful mining machines and methods were first used on the Comstock, and some were practically invented and perfected there. The methods of working the ores are peculiar. The mills belong to separate corporations; they make a large charge for working the ores and are only required to return to the mining companies sixty-five per cent of the assay value of the ores. The residue—thirty-

*Among them were William M. Stewart, Harry I. Thornton, Alexander W. Baldwin, Will Campbell, Charles H. Bryan, Charles E. DeLong, R. S. Mesick, B. C. Whitman, W. E. F. Deal, R. N. Taylor, Tod Robinson, H. O. Beatty, James H. Hardy, John Garber, H. K. Mitchell, Thomas H. Williams, A. P. Crittenden, Thomas Sunderland, W. S. Wood, C. J. Hillyer, Thomas P. Hawley, J. V. Lewis, C. M. Brosnan, Charles H. Belknap, Adrian C. Ellis, and Jonas Seeley.

five per cent—belongs to the milling companies who work the "tailings," as they are called, for their own profit.

Some of the mining machines and appliances invented and manufactured for use on the Comstock were far in advance of any that had ever before been thought of, and they have been but little improved upon to this day. The great engine manufactured for the exposition in Philadelphia in 1776 attracted world wide attention, and yet machines equally powerful were at work on the Comstock before it was built. The hoisting machines, pumps, and ventilating apparatus were marvels of strength and perfection, while drills, cables, settling pans, ore crushers, and other devices were steadily improved. The ablest engineers, mechanics, and mining experts came from all parts of the civilized world to see them in operation, and to inspect the shops in which they had been constructed.

Most of the $340,000,000 in gold and silver which the lode produced within twenty years after it was discovered, was poured into California, and remained there. Much of the larger part of it was paid out for wages, machinery, and supplies, and again paid for the means by which the machinery and supplies themselves were produced. The machine shops in which the great pumps and engines, the stamps, drills, wire cables, hoisting machines, and a thousand other things for use in the mines were made, grew from very small affairs to be among the greatest institutions of the kind in the world. The great siphon by which water was carried across the deep valley to Virginia City, was made in pieces in San Francisco, each piece for the particular

place it was to occupy, and calculated with great nicety to resist the tremendous strain to which it would be subjected. Great wire cables, such as had never before been used, more than a third of a mile long and made of tapering wires so that the upper might be able to support the lower part as well as lift the heavier loads of ore from the deepest levels, were contrived, and a thousand other useful articles were first brought into use on the Comstock. The immense sums realized by the stockholders great and small were employed in many ways—in San Francisco to erect palatial homes and stately buildings, and in the interior to improve hitherto uncultivated lands, or develop new and profitable industries. But perhaps in no way was the Comstock of more benefit to the state than in that described by Mr. Bowles: "California," he says, "has taught herself and the country how to mine intelligently and economically by her Nevada experience; mining here has been carried to greater perfection than ever before on this continent; and the wisdom thus acquired is already going back to profit California's own gold mines, and remains and extends over all the mining regions as a sure and safe basis of all future operations."*

*Across the Continent, p. 154.

CHAPTER VI.

THE PACIFIC RAILROAD

BEFORE the framing of the constitution of the United States, the men who were in control of the affairs of the infant republic, dreamed of a vast empire reaching from the Atlantic to the Pacific, and longed to explore the regions beyond the Mississippi, with its interminable plains, lofty mountains, and mighty rivers. A French history of Louisiana, published in 1758, gave the story of a Yazoo Indian who crossed the Shining (Rocky) mountains to a beautiful river down which he traveled to its disemboguement in a great ocean. This stream was later called the Great River of the West. In 1766–8, an American traveler, Jonathan Carver, claimed to have explored the upper waters of the Mississippi, and in 1778 his "Travels," published in London, makes mention of the "river Oregon, or the river of the West that falls into the Pacific at the Strait of Anian." This is the first known mention of the name Oregon. Where Carver heard it, or whether he invented it, or what, if anything, it means, is unknown. It is his sole claim to fame, for his so-called "Travels" have been proved to be merely a paraphrase of several previous writers. In 1775 Bruno Heceta, commanding a Spanish exploring squadron discovered, in latitude 46° 9′, a bay whose swift currents led him to believe he was in the mouth of a large river, and to this river he gave the name of Rio de San Roque. Into this bay, on July 6, 1788, came Captain John Meares, an Englishman, sailing in the employ of the East India Company, and encountering a mighty wall of breakers dead ahead and extending across the bay, hauled out and bore up for a distant headland to the south, in

hopes of shelter for his ship. He named the headland on the north Cape Disappointment, a name it still bears; the bay he called Deception Bay, and declared that "no such river exists as St. Roc, as laid down on the Spanish charts."

On April 27, 1792, Captain George Vancouver sailed into this bay and while noting that the sea was changed from its natural, to river-colored water, did not consider the opening worthy of more attention and continued his northern pursuit. He, too, missed the great discovery.

But the long looked for River of the West, the mighty Oregon, had to give up its secret. At eight o'clock on the morning of Friday, May 11, 1792, Captain Robert Gray in the ship *Columbia*, a Boston trader, made a dash at the formidable wall of water, ran in "between the breakers" and when over the bar found himself in a large river of fresh water up which he steered. He remained in the river ten days, named it for his ship, the *Columbia*, and gave to the United States her claim to the whole territory drained by its waters: the great Oregon Country, an imperial domain of more than two hundred and eighty-eight thousand square miles. The new republic having obtained this great frontage on the Pacific, the question was how to hold it and bind it to the territories east of the Mississippi?

On January 18, 1803, President Jefferson sent a message to congress asking for an appropriation of twenty-five hundred dollars to equip and send out a small party to explore the country west of the Mississippi, with a view of cultivating the Indian tribes inhabiting the upper waters of that river, who were

furnishing great supplies of furs and peltry to the trade of another nation, and to open trade relations with them. But Mr. Jefferson had another object in view. In 1801, a young army officer named Meriwether Lewis, had, in company with a French botanist named Michaux, started to explore the northern country beyond the Rocky mountains. They got as far as Kentucky, when Michaux was recalled by his government; the expedition was abandoned and Lewis became, for a time, private secretary to President Jefferson. The president now determined to send an expedition through to the Pacific and open, if possible, a road of communication with the new possessions on the western ocean. He suggested to congress that such an expedition of fit men chosen from the frontier posts of the army could accomplish that object. It was necessary to proceed with caution, for between the western boundary of the United States and the territory claimed by right of Gray's discovery, lay a vast wilderness belonging to France, but in the possession of Spain and ruled by Spanish officers. The appropriation was made and preparation for the great undertaking was begun. The president appointed Captain Meriwether Lewis to the command and gave him precise instructions regarding the scope and purpose of his journey. In particular, he was to proceed to the country "where rolls the Oregon," down which he would travel to the sea, and to ascertain whether the trade of that country could not be conducted through to the Missouri river and the United States. Of course, the only roads contemplated were wagon roads. Railroads were then unknown.

Before the expedition could get under way, the Louisiana Purchase was consummated whereby the great territory between the Mississippi river and the Rocky mountains became the property of the United States. Not only were the ordinary dangers of the wilderness to be encountered, but the Spanish authorities, who were still in possession and strongly inimical to the transfer of the territory, were advised by the traitor, James Wilkinson, major-general commanding the United States army and governor of Upper Louisiana, to fortify both the Texas and Florida frontiers and thus restrain the Americans' westward advance and save Mexico and Peru from what he termed "an army of adventurers similar to the ancient Goths and Vandals." He also advised them to arrest the exploring party under Captain Lewis and break up the settlement of Daniel Boone on the Missouri. For this precious piece of advice and for information furnished the Spanish governor, Wilkinson was paid twelve thousand dollars.* Captain Lewis joined to himself in the command of his party, William Clark, a lieutenant of artillery, and together they made the journey without encountering the Spanish force. The expedition was successful and returning reached St. Louis in September, 1806.

During the next few years the trappers and hunters pushed their way further and further into the western wilderness, and in 1810, Mr. John Jacob Astor, of New York, with several others, formed the Pacific Fur Company and sent out an expedition by sea for the mouth of the Columbia, where it was determined to

*J. J. Cox, *American Historical Review, July, 1914.*

establish a station, and another party overland by the route of Lewis and Clark. The sea expedition reached the Columbia in March, 1811, and the land party the following February. A fort was built and settlement made which received the name of Astoria. Thus was the right of discovery and exploration made good by colonization.

For a number of years little was done by way of exploration, save that by the brigades of the great fur companies and by the free trappers of the wilderness. In 1826, Jedediah Smith with fifteen men made his way across the Big Basin to southern California, and after passing the winter in California, crossed the Sierra Nevada in May, 1827, by way of Mount Lassen, which he calls Mount Saint Joseph, and reached the Great Salt Lake. Smith's venture was followed by that of the Patties in 1828–30, and by other adventurers, and in 1841–2 began the first organized parties of emigrants from the states east of the Missouri for settlement in California and Oregon. The acquisition of California in 1848 and the discovery of gold caused an immense immigration, and the necessity of closer communication between the eastern states and California became imperative. The advent of the steam railroad, 1825–40, caused all consideration of a wagon road to the Columbia to be abandoned.

In 1832, Dr. Hartwell Carver, of Rochester, New York, a grandson of the whilom explorer, Jonathan Carver, in a series of articles in the "New York Courier and Inquirer" advocated the construction of a railroad from Lake Michigan to the Pacific and later memoralized congress for a charter. He asked for a

belt of land for the whole distance, with stone, iron, and lead from the public quarries and mines, and the privilege of buying eight million acres of selected land at a dollar and a quarter an acre, paying therefor with the stock of his company. The road was to branch at the South pass: one line leading to San Francisco bay and the other to the mouth of the Columbia. The time made by the road was to be five days from New York to San Francisco, and sixteen-foot palace sleeping cars and saloon and dining cars were to be attached. For thirty years Carver continued his petitions for a charter. He was finally rewarded in 1869 with a free pass over the Pacific Railroad.

In 1836, John Plumbe, of Dubuque, Iowa (later of Sacramento county, California), advocated the construction of a railroad from Lake Michigan to Oregon, and on March 26, 1836, a public meeting was held in Dubuque to consider how this could be accomplished. Congress was asked for an appropriation to defray the expense of a survey and location of the first link of the great railroad from the lakes to the Mississippi. This work was done and at the session of the Wisconsin legislature of 1839–40, congress was petitioned to continue the work, but did not respond.

Plumbe's plan contemplated sufficient appropriation of the public land in alternate sections, twenty million dollars capital in shares of five dollars each, and an installment of twenty-five cents a share to commence the work. When this was expended, a sale of land would produce five million more, and so on until the road was completed. The southern members objected to the bill because the line contemplated was too far north.

In January, 1845, Asa Whitney, of New York, a man who had spent many years in China and who had made extensive explorations of the region between the Mississippi and Missouri rivers, asked congress for a charter for a railroad to connect Lake Michigan with Puget sound or the Columbia river, or both. Whitney wanted a strip of land sixty miles wide along the whole length of the road or 92,160,000 acres, with their agricultural, mineral, and lumber products. Without capital, he proposed to build the road, selling the lands to raise the means, and after the completion of the road, all lands remaining unsold were to be retained by himself and his heirs.

Whitney's project occasioned much discussion. Many favored it while others opposed it, some arguing that it would create a monopoly imperial in wealth and resources which would be a standing menace to the government.

In December of the same year Mr. George Wilkes, of New York, presented a memorial to congress advocating the construction of a road by the government itself. Its promoter argued that the mere fact of an official survey would so enhance the value of the public lands that capitalists would hasten to invest money in them, and thus supply the necessary funds.

It was a time when the imagination of men was greatly excited. The generation had witnessed the invention and successful operation of the steam railroad, and what was more wonderful, a ship sailing swiftly against wind and tide, and the still greater wonder, the electric telegraph, whereby a message could be transmitted hundreds of miles like a flash of

lightning. New discoveries in science, new fields of enterprise and thought marked the period as an extraordinary one. No scheme was so wild and impossible as to fail of eager advocates and enthusiastic supporters. As one of the advocates of a national railroad said: "Science, having stripped experiment of its terrors, measures with accuracy the results of every assay, and despising the obstacles of nature, whose elements—nay, even the forked lightning itself—she has fastened to her car, feels as capable of beating down the barriers of a continent, as of measuring the distance of a planet."

The commerce of the East in every age had been the source of the opulence and power of every nation that had engrossed it. By a silent and almost imperceptible operation, India had been, through the centuries, the secret but active cause of the advancement of mankind. Her trade imparted the first impulse to drowsy and timid navigation, and revealed in the direction to its coasts, region after region before unknown; it found for the guidance of the mariner new planets in the sky, and its restless spirit had not been content to make more than a temporary pause in the discovery of another world. Like the Genii of the fable, it still offered the casket and the sceptre to those who, unintimidated by the terrors surrounding it, were bold enough to adventure to its embrace. In turn Phœnicia, Israel, Carthage, Greece, Rome, Venice, Pisa, Genoa, Portugal, Holland, and lastly England, had won and worn the ocean diadem—our destiny now offered it to us.

This railroad to the Pacific, which was to bind in closer contact the states bordering on the two great oceans, was, in reality, to do much more than that: it was a road to India. It was the great western passage for which contending nations had been struggling for centuries. By the time it had reached its Pacific outlet, fraternal lines from every branch of the Atlantic slope would converge together to give it an iron grasp of welcome on the banks of the Missouri. "Thus, then, do we settle the great problem which has so long puzzled the subtlest genius and most daring energies of man. Starting from the ports of China we sail across the placid western ocean in twenty days. Embarking next upon the bosom of the land we double our speed and glide across the vast width of the continent in six days more, and with ten days left to fill the race, roll out our Indian treasures on the shores of Europe. There will be no more crossings of the Equator; no more tedious and perilous weatherings of the Capes. The whole human family, thirty-nine fortieths of whom lie north of the Equator, will pursue a direct intercourse with each other around this civilizing belt, and the navies of the world, recalled with commerce to the common line, will have little else to do than drowsily look on at the happy bustle which condemns them to worthlessness and to decay. On the Atlantic, the smallest powers, protected by the general equality, will enter into generous competition with the greatest, while on the Pacific, we shall reign alone and be the common carrier for all. From our new cities on the western coast will launch the ships with which no nation will be able to compete by

sending rival bottoms around the Capes, while in the center of a row of bustling ports will sit one giant mart—the mistress of the West—the modern Tyre!"*

Reference was made to a route by canal through the isthmus. How could the United States preserve the integrity of the Grand Canal? Could we hope to remain masters of this passage in time of war? And if so, at what cost? "We have had enough of war," exclaims the speaker. "The world is sick of armies and navies—their pompous shows, their fripperies of rank, their despotic inequalities—and the masses of all nations wish to grasp each other by the hand. It is the interest of a Republic, as well as its duty, to aid these aims and foster this fraternal spirit. The railroad will do the whole. It will promote an intercourse that will be its own protection and the possession of the ponderous gates of commerce which we shall hold on either ocean, will enable us by the mere lifting of our finger, to command peace throughout the world! Peace, or the exclusion of the brawler from the highway of the nations!"

The building of a railroad across the continent of North America excited as great an interest in the commercial world of that day, as the construction of a canal across the isthmus of Panama does in this. Public meetings were held in different parts of the Union to discuss the various methods by which it might be built. Congress was disposed to look with friendly eyes on the Whitney project and in 1848 the legislatures of sixteen states adopted resolutions favor-

*Speech of William M. Hall of New York in favor of a national railroad to the Pacific, at the Chicago Convention, July 7, 1847.

ing it, notwithstanding the violent opposition of those who objected to the enormous grant of public land it involved. Mr. Thomas H. Benton was especially angry in his protest. "The noise and the harassment that has followed up the proceedings of the senate," he said, "I now find interrupted by a motion which I cannot understand. Is it to run a railroad through to California, when we can't get even a government for the territory? Is that the idea, sir? At the very moment when I was looking over the plan of Mr. Jefferson, as a ground work to see whether anything could be done for the temporary government of the orphan territories, my ears are struck, sir, by the sound of Whitney's railroad. * * * Why, sir, I wrote on this subject before Mr. Whitney ever dreamed of it. * * * I followed the track of Mr. Jefferson, but it never entered my head, sir, that to any man we should ever grant a hundred millions of acres. Never, sir, would I grant to the custody of even such a man as John Jacob Astor, or Stephen Girard, who could take care of their millions, a tithe of this grant of territory, much less, sir, to a man who, as far as I know anything about him, cannot even take care of one dollar, or one acre. * * * And with the discretion as to where the railroad shall begin, and where it shall end, there is not a man to whom I would trust it, on the face of the earth."*

The southern members insisted on a route south of Mason and Dixon's line, to which the northern men would not agree. Mr. Benton, who had favored a road via the South pass to the Columbia, now changed

*Thomas H. Benton in United States Senate, July 29, 1848.

his mind under the influence of his versatile son-in-law and the southern members, and early in 1849 introduced a bill to provide for a road from St. Louis to San Francisco, not by the South pass, which, he said, had never met the approbation of Mr. Frémont, but much further south, crossing the Rocky mountains by a favorable pass, mapped out by that accomplished engineer, a pass which did not exist and in the endeavor to find which, he had, in 1848, lost half of his surveying party by starvation.

Benton favored a national road; he questioned the propriety of allowing individuals to become the proprietors of such a road, and in view of the enormous fortunes accumulated in a short time by the builders of the Pacific railroad, who shall say he was not right?

In the spring of 1849 the people of St. Louis held a preliminary meeting at which it was resolved to call a national convention consisting of delegates from every state in the Union, to be held in that city on the 16th of October to give expression to the will of the American people. Fourteen states accepted the invitation and eight hundred and thirty-five delegates were present at the meeting. Benton made an argument and attempted to describe the route across the mountains for which Frémont was looking when he became lost in the snow, but the majority seemed to favor the South pass, and the meeting was adjourned to convene at Philadelphia in April, 1850. Other cities had meetings and conventions at which methods and routes were discussed with much feeling and interest.

At Philadelphia the convention was called to order April 1, 1850, and William B. Ogden, of Illinois, was

elected president. Letters were received from many prominent men who were unable to be present. Frémont sent a letter accompanied by a map showing the Benton-Frémont route, which crossed the Rocky mountains south of the Arkansas river by a pass, said afterward by his enemies to be the highest peak but one in the range. All of the various plans proposed were considered, and the convention finally passed a resolution favoring a national road and a memorial to congress was adopted to that effect.*

The matter of the Pacific road was now fairly before the people and congress passed an act, approved March 13, 1853, authorizing the secretary of war to make such explorations as he might deem advisable, in order to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean. Under this authorization the secretary, Jefferson Davis, put a large number of engineers in the field and all the routes of previous explorers were carefully examined and fully reported on and a number of new lines were run. The secretary's report is in full detail and comprises thirteen quarto volumes of six hundred and fifty pages each, and is accompanied by a fine map showing the routes of all explorers from Lewis and Clark down to 1856. The route near the forty-seventh and forty ninth parallels—the Missouri and Yellowstone rivers—was in charge of Isaac I. Stevens major of engineers, now (1853) governor of Washington Territory, assisted by Captain George B. McClellan. That of the forty-first and forty-second parallels, explored

*Wm. M. Hall, *National Railroad, New York, 1853.* John Plumbe, *Memorial to Senate against Asa Whitney's Railroad Scheme.* Bancroft, *History of California, Vol. VII, p. 497-516.*

by Colonel John C. Frémont and Captain Howard Stansbury, was reported by Lieutenant E. G. Beckwith of the Third Artillery. The route of the thirty-eighth and thirty-ninth parallels, explored by Captain J. W. Gunnison, was reported by Lieutenant Beckwith. That of the thirty-fifth parallel, by Lieutenant A. W. Whipple; while that of the thirty-second parallel was explored by Major William H. Emory, Captain John Pope and Lieutenant John G. Parke, with the line from the Gila river to San Francisco by Lieutenant R. S. Williamson. The reports of proposed routes vary greatly in distance, in estimates of cost, and the altitudes necessary to be attained are from a maximum of 5715 feet to 9540 feet. Of that near the thirty-eighth and thirty-ninth parallels (the Frémont-Benton route), the report states the cost would be prohibitory. On all practicable routes the greatest number of miles passing through arable land was 632.

The report of the secretary of war was laid before congress in February, 1855. The free-soil fight was on and congress could agree on nothing. Many bills were introduced—bills for one road, bills for two roads, and bills for three roads. All met the same fate. Meanwhile, the withdrawal of the southern members and the events which followed gave a new character to legislation. The immediate construction of a railroad across the continent was demanded, not only as a commercial necessity, but as a defensive measure. In addition, the public lands had developed into states and territories. A system of land grants to aid in the construction of railroads had been inaugurated and men had learned that population always followed a

railroad and that it was safe to build through a country that would support settlers. In 1862 a bill to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean passed both houses and became a law July 1st. It chartered a company to be known as the Union Pacific Railroad Company, to be composed of men of every northern state, and of Maryland, Kentucky, Kansas, Oregon, California, and the territories of Nebraska, Colorado, and Nevada, associated with five commissioners, to be appointed by the secretary of the interior.*

The road was called the Union Pacific because it was intended to unite with other roads to form a transcontinental line, namely: the Leavenworth, Pawnee, and Western Railroad of Kansas, the Central Pacific Railroad of California, the Hannibal and St. Joseph Railroad, the Missouri Pacific, and a line from Sioux City, Iowa. The first was authorized to construct a railroad and telegraph line from the mouth of the Kansas river to a point on the one hundredth meridian of longitude west from Greenwich in the territory of Nebraska. The Hannibal and St. Joseph Railroad should extend from St. Joseph via Atchison and connect with the Union Pacific road at the one hundredth meridian. A railroad was also to be constructed from Sioux City to the same point on the hundredth meridian, and the Union Pacific company was authorized to construct a road from some point on the western boundary of Iowa, to be selected by the president of

*Among the charter members named in the bill were D. O. Mills, Peter Donahue, C. P. Huntington, Theodore D. Judah, Charles McLaughlin, and others, of California; and John Atchison and John D. Winters, of Nevada Territory.

the United States, to form connection with the above roads at the hundredth meridian and to continue westward to the eastern boundary of California where it would meet and connect with the Central Pacific of that state. The charter provided that the capital stock should consist of 100,000 shares of $1,000 each, of which not more than 200 shares should be held by any one person and no person should be a director who was not a bona fide owner of at least five shares of stock. The right of way through the public lands was granted with the right to take from them earth, stone, and timber, or other material for the construction of the railroad and telegraph. The United States should extinguish as rapidly as possible the Indian title along the line; and there was granted to the company to aid in the construction of the road and telegraph and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores thereon, every alternate section of public land designated by odd numbers, to the amount of five alternate sections per mile on each side of the railroad and within the limits of ten miles on each side, not sold, reserved, or otherwise disposed of, mineral lands alone exempted, and all lands so granted not sold or disposed of by the company within three years after the completion of the road to be open to settlement and preëmption like other public lands. When forty consecutive miles of road and telegraph should be completed, American iron being used in the rails and in construction and equipment, the secretary of the treasury, after inspection and acceptance by commissioners appointed by the president, should issue to the company bonds of the

United States of one thousand dollars each, payable thirty years after date, bearing interest at six per cent, to the extent of sixteen thousand dollars per mile for every mile of the completed section; the delivery of these bonds, twenty-five per cent of which were retained until the road should be completed, to constitute, *ipso facto*, a first mortgage on the whole line and telegraph, together with rolling stock and property of every kind appertaining, and on the refusal or failure of the company to redeem its bonds, or any part of them, when required by the secretary of the treasury to do so, its road and property might be taken for the use and benefit of the government. It was further provided that for one hundred and fifty miles westwardly from the eastern base of the Rocky mountains, and for the same distance easterly from the western base of the Sierra Nevada, at points to be designated by the president of the United States, the number of bonds per mile which might be issued was treble the amount granted for the level sections, and should be due upon the completion of each twenty miles; and between these two mountain divisions the number of bonds per mile to be issued should be double the amount for the level sections and should issue every twenty miles, but no more than 50,000 bonds ($50,000,000) should be issued in aid of the whole main line of the road. The grants were made upon the condition that the company should pay its bonds at maturity, should keep its road and telegraph in repair and use, and at all times ready for the service of the government, which should pay a fair and reasonable compensation for such service, but not more than private individuals

were charged, and this indebtedness of the United States might be applied upon the bond and interest debt of the company to the government, and after the completion of the road, at least five per cent of the net earnings should be annually applied to the payment thereof. The road from the Missouri river to the navigable waters of the Sacramento river must be completed by July 1, 1876. The bill provided that all roads constructed under its provisions to form a transcontinental line should receive the same aid in construction and be subjected to the same conditions as the Union Pacific. The company should file its assent to the terms thereof within one year from the passage of the act, should designate its route within two years, and should complete its railroad and telegraph within twelve years. The Kansas company should complete one hundred miles of its road within two years after filing its assent. The Central Pacific company of California should complete fifty miles within two years; each road to construct an equal distance each year until the whole was completed; and afterwards might unite upon equal terms with the Union Pacific company to complete what remained of that road. In case the latter should reach the boundary of California before the Central Pacific, it might, with the consent of the state, continue on to a connection with that road; or should the Central Pacific first reach the boundary of the state, it might continue on to a meeting with the line from the east. Up to 1865, the Union Pacific had not begun construction of its road, but in that year it commenced and made rapid progress. The managers expected to reach the bound-

ary line of California before the Central Pacific company could cross the Sierra Nevada, and were surprised to find that company essaying the Humboldt desert by the time their road reached Cheyenne. Beginning at Council Bluffs the Union Pacific crossed the Missouri river and thence in a northwesterly direction for forty-six miles it reached the Platte river, and continuing up the north bank of that stream to the forks it crossed to the south fork and up to the mouth of Lodge Pole creek, up which it ran and crossed the first range of the Rocky mountains by Cheyenne pass at an elevation of about eight thousand feet, to which point their line from the Missouri river had been a gradual ascent; running northerly and skirting the high peaks of the Medicine Bow range, they resumed a westerly direction and continued through Bridger's pass; thence, by Captain Stansbury's survey of 1850, down Bitter creek to the Green river, across the Green, up Black's fork and the Big Muddy, they crossed the Wasatch range by Weber pass to Ogden.

In California the subject of a transcontinental line of railroad received early attention, and the first legislature, 1850, adopted a joint resolution urging upon congress the importance of authorizing the construction of a national railroad from the Pacific to the Mississippi river as soon as possible, and the immediate organization of an engineer corps to make complete surveys of the various routes that had been recommended, while much discussion was had over the most favorable route for the California end of the road. The first scheme to take form was a line from San Francisco to San Jose for which $100,000 had been

subscribed in February, 1851. On the 6th of September a company was organized under the name of the Pacific and Atlantic Railroad company, and surveying began. An attempt was made to float the stock in California and in the eastern cities, but as no part of the road had been constructed, the effort failed. A like fate met an appeal to congress for aid. The enterprise languished and in 1859, after two organizations had been effected, a new company was formed under the name of San Francisco and San Jose Railroad company with $2,000,000 capital stock. This company met with the same fate and was succeeded in 1860 by another organization which completed the road January 16, 1864. It was later extended southward and is now a portion of the main line of the Southern Pacific Railroad company. The first railroad company to begin operations in California was the Sacramento Valley Railroad company, which was incorporated in 1853 and began grading in February, 1855. On February 22, 1856, the road was formally opened from Sacramento to Folsom, a distance of twenty-two miles. Both of these roads hoped to form the California end of the transcontinental line. At Placerville a meeting was held early in 1854 for the purpose of considering a railroad to connect that place with the Sacramento Valley road; but owing to the decline in trade and the following depression of 1854-5, nothing was done. In 1857 a tri-weekly line of stages was established between Placerville and Genoa in Carson valley, via Johnson pass, by a road following up the south fork of the American river and crossing the summit of the Sierra Nevada at an elevation of 6752 feet—about

ten miles north of Carson pass, over which so much of the immigration of 1849-50 had passed. In 1858 the overland mail from Sacramento to Salt Lake began to be carried over this road and in 1859 came the Washoe excitement and the migration to the Comstock mines. The road over the mountains was not only the best equipped stage road in the United States but was one of the most beautiful. Leaving Placerville it reached the bluffs overlooking the south fork of the American in sixteen miles over a gentle grade; thence following up the stream and through Strawberry valley it crossed the summit at Johnson pass; thence a drive of five miles in a northerly direction brought the traveler in sight of Lake Tahoe, lying three hundred feet below and stretching for thirty-five miles to the north. For the next ten miles the road followed the shore of the lake which it left at Friday's Station, thence turning due east a sharp pull of four miles, rising eleven hundred feet, and reaching the western summit of the sierra at Daggett's pass, elevation of seventy-four hundred feet; then by the Kingsbury grade to Genoa and Carson City. The road was kept free from snow in winter and was sprinkled in summer. The coaches were the finest made, the horses were the fleetest obtainable, and such knights of the whip as Hank Monk, Curly Bill, Curly Dan, et al., gained their fame on this run. From Placerville to Carson City, one hundred miles, the time schedule was ten hours. The slow toiling up hill was compensated when the summit was reached and it was a glorious sight to see one of these handsome coaches loaded with passengers, inside and out, dashing down the grade, the six

horses at full run while the driver with foot on brake cracked his long lashed whip over their heads. But the end was inevitable and the building of the Pacific railroad killed a most picturesque and profitable business. It is said that in 1863 there was collected in tolls on this road three hundred thousand dollars, while the freight on merchandise and machinery over it during that year was thirteen million dollars.

Placerville felt that it had claims to consideration in the selection of a route for a transcontinental line, but it was not to be. The Dutch Flat route was selected, the Central Pacific absorbed the Sacramento, Placer, and Nevada railroad and endeavored to break into Placerville's stage road business by building a wagon road from Dutch Flat to Carson valley and the Washoe* mines and putting on a line of stages to run in connection with their railroad.

On the 5th of April, 1859, the legislature passed a resolution calling for a convention to be held in September in San Francisco, for the purpose of adopting measures whereby the building of a railroad from the Atlantic to the Pacific might be acomplished. Every county of California, Oregon, Washington, and Arizona was requested to send delegates. John Bidwell presided and a memorial to congress was adopted praying for congressional aid for a road through the territories, to connect at the eastern boundary of the state with such road as might be constructed in California, and declaring a preference for a central route between the thirty-eighth and forty-second degrees

*The Comstock Lode and the mining district of Virginia City was called "Washoe" because of the Washoe mountain range on which it is located.

of latitude; the feasibility of which had been demonstrated by the maintenance upon it, summer and winter, of a stage line. To aid in the construction of the California portion of the road it was proposed that the states of California and Oregon should create a debt of $15,000,000 and $5,000,000 respectively, and that a railroad fund should be created by setting aside the moneys obtained by the sale of the swamp and overflowed lands.

The chief promoter of this San Francisco meeting was a young engineer named Theodore D. Judah, a native of Bridgeport, Connecticut, educated at the Rensselaer Polytechnic Institute of Troy, New York. Judah came to California in 1854 to construct the Sacramento Valley road. He had made long and careful study of the problem of a Pacific railroad; he was thoroughly convinced of the practicability of the project and was full of zeal for its accomplishment. It was largely his earnestness, and the clearness and satisfactory character of the information he furnished that influenced the action of the convention.

In the spring of 1861, Judah called a railroad meeting at St. Charles hotel in Sacramento and made an appeal for assistance in perfecting his surveys of the different passes of the Sierra Nevada, of which he had made many reconnoissances, and in response a fund was raised to keep surveyors in the field. Among the men whom Judah had succeeded in interesting in his project were Leland Stanford, Collis Potter Huntington, Mark Hopkins, and Charles Crocker. He had been introduced to them by James Bailey, a jeweler of Sacramento, and they had listened to his statements most

approvingly. Stanford was born on a farm near Albany, New York, in 1824. He worked on his father's farm in summer, attended school in winter, studied law and was admitted to the bar in 1845, and began the practice of law at Port Washington, Wisconsin. In 1852 he came to California and engaged in mercantile business at Michigan Bluff, in Placer county; soon coming to Sacramento, he became a prominent merchant, taking an active part in politics, and in 1861-3, was governor of California. Huntington, a native of Connecticut, born in 1821, came to California in 1849 and went into mercantile business at Sacramento, and in 1855, in partnership with Mark Hopkins, established the hardware house of Huntington, Hopkins and Company. Hopkins was a native of New York, born in 1813, entered into mercantile business at Lockport, New York, studied law, and in 1849 came to California. Charles Crocker was a native of Troy, New York, born in 1822. He worked on his father's farm in Indiana, in a saw mill and later in a forge, and attended district school in winter. In 1850 he came to California and in 1852 established a dry goods business in Sacramento.

Soon Judah's enthusiastic work began to show results. On June 28, 1861, the Central Pacific Railroad company of California was organized under the general incorporation law of the state, with Leland Stanford, president; Collis P. Huntington, vice-president; Mark Hopkins, treasurer; James Bailey, secretary; and Theodore D. Judah, chief engineer. The directors were the above and E. B. Crocker, John F. Morse, D. W. Strong, and Charles Marsh. The capital stock

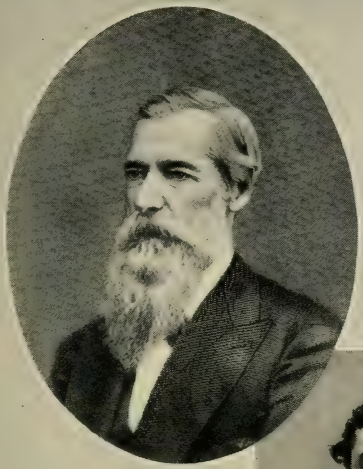


THE BUILDERS OF THE PACIFIC RAILROAD

Mark Hopkins Collis P. Huntington

Theodore D. Judah

Leland Stanford Charles Crocker









of the company was $8,500,000 divided into 85,000 shares of $100 each, and Stanford, Crocker, Huntington, Hopkins, and Judah each subscribed for 150 shares, while other individuals subscribed for 850 shares more, making a total of 1580 shares; and the ten per cent, required by law to be paid down, gave the sum of $15,800 with which to begin the construction of a railroad across the Sierra Nevada.

The audacity of these men in undertaking such an enterprise seems remarkable. The entire assets of the four leaders did not exceed $109,000 by their own showing, and yet they were about to attempt the most difficult and expensive portion of a Pacific railroad.

Of all the surveys laid before the corporation by Judah, that via Dutch Flat, Donner pass, and Truckee river, was selected. August and September were devoted to mapping the surveys, making profiles of the mountains, and gathering information to lay before congress; and in October Judah went with these to Washington to endeavor to secure the passage of a Pacific railroad bill.

In the senate were Milton S. Latham and James A. McDougall, while Timothy Guy Phelps, Frederick F. Law, and Aaron A. Sargent, represented the state in the lower house. In company with Sargent Judah traveled to Washington. Together they laid their plans for a railroad bill, and the bill, as it finally passed, was chiefly the work of Sargent aided by Judah.

The bill was not satisfactory to the directors of the Central Pacific Company. There was a depreciation in government bonds and currency consequent upon the civil war; then the act made the subsidy a first

mortgage on the road, and therefore no second mortgage would be accepted by capitalists, without whose aid the first lot of subsidy bonds could never be obtained. Moreover the land grant in California was of little value, for under the terms of the act less than 200,000 acres of arable land could be obtained between Sacramento and the state line. But notwithstanding all this, the directors did not hesitate to accept the grant though they were fully aware that without further action on the part of congress, to complete even the first forty miles might be a task beyond their resources.

In July, 1862, Judah returned to California and the notice of acceptance of the terms of the bill was filed in the office of the secretary of the interior December 1, 1862.

Now came the struggle to construct the first forty miles of road. Huntington went east and succeeded in procuring material for fifty miles of road which he shipped to California, and on the 22d of February, 1863, the ceremony of breaking ground at Sacramento took place in the presence of the legislature and other spectators, Governor Stanford throwing the first shovelful of earth. Contracts were let for the first eighteen miles of road, the track to be laid by the middle of August; but it was not so completed until about January, 1864, and by September of that year thirty-one miles had been finished.

In October, 1863, Judah set out again for Washington to ask for further benefits. He was taken sick with a fever and died in New York on November 2, 1863, at the early age of thirty-seven years. He was an engineer of rare skill and ability and without him the

Pacific railroad would not have been built when it was. He pointed the way and began the work and new and less talented men could carry it on.

The situation confronting the railroad builders was not an easy one. The problem was how to get the money to build the first forty miles of road which must be constructed before the government subsidy would be available? Their combined assets would not build three miles of road; no capitalist, individual, or corporation would have anything to do with them. The few Sacramento merchants who ventured to subscribe to the enterprise were told they would lose their money. The directors were bitterly assailed in the press and their failure freely predicted. But the railroad builders were not idle. The recognized advantage of the road, and the general desire to have it built told in their favor and the people were with them. An act of the legislature, approved April 2, 1863, authorized the county of Placer, if the electors so voted, to subscribe for stock in the railroad two hundred and fifty thousand dollars in county bonds to run twenty years at eight per cent; it also gave the company right of way over certain specified streets, certain levee and other public lands outside the city of Sacramento, together with a portion of the water front and certain overflowed lands within the city. The supervisors of San Francisco were granted leave, subject to the will of the people, to subscribe for six hundred thousand dollars of stock of the Central Pacific and four hundred thousand of the stock of the Western Pacific companies to be paid for in city and county bonds running for thirty years, payable in gold with interest at seven per cent. Sacra-

mento county was also allowed to subscribe for three hundred thousand of stock in like manner; the state was required to pay the company two hundred thousand dollars when the first twenty miles of railroad were completed, a like sum for the second twenty miles and one hundred thousand dollars when fifty miles were finished. The consideration for this subsidy was that whenever it should be required the road should transport over its line public messengers, convicts going to the state prison, materials for the construction of the state capital, articles for exhibition at the state fairs, and in case of war, invasion, or insurrection, troops and munitions of war, free of charge. The legislature also authorized and empowered the Sacramento, Placer, and Nevada Railroad company to sell all or any part of the railroad built by it to the Central Pacific company. Placer and Sacramento counties subscribed as authorized by the legislature. In San Francisco there was trouble. The press attacked the scheme viciously. Here was a company, they said, of a few unknown individuals of an interior town, possessed of insufficient means to commence with, yet who had spent two hundred thousand dollars in killing the Placerville railroad by diverting travel to the Dutch Flat route; who had purchased another possible rival;* and had converted a third to its own purposes by assigning to it the grant and privileges derived from the Pacific Railroad act of 1862, and adopting it into its line to San Francisco.† After some litigation a

*The Sacramento, Placer, and Nevada Railroad.

†The Western Pacific Railroad. Bancroft, *History of California, Vol. VII, p. 552-557.* Hittell, *History of California, Vol. IV, p. 471-481.*

compromise with the city and county of San Francisco was effected whereby the city contributed four hundred thousand dollars to the Central Pacific company and two hundred thousand to the Western Pacific, and relinquished its stock in the companies, fearing responsibility as a stockholder in case of failure. This proved to be a mistake as the stock rose to high value. The county of San Joaquin subscribed two hundred and fifty thousand dollars to the stock of the Western Pacific, and that of Santa Clara one hundred and fifty thousand to the same. The Western Pacific Railroad company was organized in 1862 to form the connecting link between Sacramento and San Francisco as a part of the transcontinental line. It ran from San Jose to Sacramento via Stockton and connected with Oakland by a branch from Niles, and San Francisco by ferry boat across the bay.

In 1864 the legislature repealed the act of 1863 granting to the Central Pacific company five hundred thousand dollars, and substituted another authorizing the company to issue its bonds of one thousand dollars each to an amount not exceeding twelve millions of dollars payable in gold coin in twenty years with interest at the rate of seven per cent. These bonds were to be secured by mortgage on the railroad, rolling stock, buildings and other property including franchises; but the interest on the first fifteen hundred bonds, representing a million and a half of dollars, was to be paid by the state, provided however that the counties of Placer and Sacramento and the city and county of San Francisco should be exempt as stockholders from liability for the payment of the company's bonds,

interest or principal, over and above the amount previously subscribed by them. A tax of eight cents on the hundred dollars of taxable property of the state was to be levied for twenty years to constitute a fund to be known as the Pacific railroad fund for the payment of interest on such fifteen hundred bonds. The act contained the same conditions with regard to free transportation as the former one, and in addition a provision for a deed from the company of a granite quarry in Placer county situated on railroad land. The act was assailed as unconstitutional, for only in case of insurrection, war, or invasion could the state create a debt for more than three hundred thousand dollars; but the bill was so drawn that the civil war was made the motive and the necessity for the early construction of the road to repel invasion, suppress insurrection, and defend the state from its enemies.

Meanwhile the Union Pacific had not commenced construction at its end of the line but the company was using all its endeavor to prevail upon congress to double the amount of aid granted. To assist in this work now came Huntington, on whom had fallen the burden since the death of Judah, and upon more competent shoulders it could hardly have rested; his was clearly the force which dominated this group of railroad builders and without his great ability it is doubtful if the enterprise would have succeeded. There were many strong arguments made and weighty reasons brought forward by Huntington relative to the necessity for relief at the western end of the line. He claimed that the subsidies granted by the law of 1862 were entirely inadequate

to build the railroad, while the need of securing speedy communication between the Atlantic and Pacific became daily more and more apparent and among the arguments urged in support of this view was the danger of losing California to the Union unless the road was speedily constructed. The great advantage of the road in developing the country and increasing its wealth was presented, while the fall in the value of currency and bonds, and the rise in price of labor and materials caused by the war, were vigorously pressed as reasons for relief.

The arguments of Huntington, helped as they were by the whole force of the Union Pacific company, were successful and resulted in the passage of an act amending that of 1862, which became a law by the approval of President Lincoln July 2, 1864.

The amended act increased the land grant from five to ten sections per mile; removed the reservation of mineral lands as far as concerned coal and iron; extended the time for designating the general route one year, while the amount to be annually constructed was reduced from fifty to twenty-five miles; but provided that the whole distance to the state boundary should be finished in four years. The reservation of twenty-five per cent of the bonds to be delivered to the company until the completion of the road, was repealed. The requirement of the previous act that all compensation for services rendered the government and five per cent of the net earnings of the road were to be applied to the payment of the bonds loaned the company and the interest thereon was changed, and

only one half of the compensation for services was required to be so applied. If the chief engineer of either corporation should certify that a certain portion of the road required it, to prepare the road for the superstructure for any section of twenty miles, the secretary of the treasury was authorized to issue two-thirds of the bonds which would have been due. Either company might, on completion of each section, issue first mortgage bonds on its road and telegraph line to the amount of the bonds of the United States to be issued to them on an even date; and the lien of the government should be subordinate to that of the bonds of the companies issued on their roads and equipments; besides which, the government would issue its bonds every twenty instead of every forty miles, as in the original act. Should the Central Pacific company elect to build east of the state line, it would be allowed bonds of the government at the rate of thirty-two one thousand dollar bonds per mile, the understanding being that the whole country between the Rocky mountains and the Sierra Nevada was more or less mountainous. The Central Pacific company was restricted to building one hundred and fifty miles east of the boundary line of California, but in 1866 this restriction was removed and the company permitted to build until the road coming from the east was met.

With the passage of this act the money troubles of the railroad builders disappeared and the completion of the road was assured. The most important provision of the act of 1864 was that which permitted each corporation to issue, on the completion of each twenty

miles of road, first mortgage bonds to an amount equal to that issued by the United States, of even date and tenor therewith, and subordinating the mortgage lien of the United States bonds to those issued by the companies. This provision enabled the builders of the roads to negotiate their bonds at once and at the highest rate. In addition to these favors the western base of the Sierra Nevada was, by executive order of the president, Mr. Lincoln, moved down to Arcade, five miles from Sacramento, although for fifteen miles beyond Arcade the road ran over the almost dead level of the Sacramento valley and thence for fifteen miles further over an easy grade of about fifty feet to the mile.* The importance of this order of the president, who, of course, could have had no personal knowledge of the topography of the country, is seen when it is remembered that the bonds issued by the United States and by the company amounted to thirty-two thousand dollars a mile until the western base of the Sierra Nevada was reached, and thence for the next one hundred and fifty miles the bond issues were at the rate of ninety-six thousand dollars per mile.† With a million and half subscribed by the counties, twelve millions by the state, and ninety-six thousand dollars per mile of constructed road in bonds, the builders were on the way to fortune. But to reach the path which ran so

*It is said that the person through whose instrumentality the mountains were moved to Sacramento was John Conness, United States Senator for California.

†"The foot-hills of the Sierra Nevada begin at Folsom, on the American, and at Johnson's Ranch on Bear river; the line of foot-hills running through or near Lincoln (about 15 miles northerly from Folsom) forming a piece of land in Sacramento valley, between the foot-hills and Sacramento river of about 30 miles in length and 20 in width." *Report of Theodore D. Judah, October 1, 1861, p. 11-12.*

smoothly there were yet large obstacles to overcome. To meet the cost of construction of the first forty miles required by congress as a guarantee of the purpose and ability of the company, its financiers were compelled to borrow on their personal security. They were practically without capital and they gave their personal notes for sums greatly beyond their ability to pay, and in this were helped by some of the members of the Union Pacific company.

The road was opened for business as fast as built and showed a profit from the beginning. On June 4, 1864, the road was finished to Newcastle thirty-one miles, and the books showed earnings between that date and September 14, 1864, of $58,917.74, above operating expenses.

Meanwhile there developed very considerable opposition to the road. There was much litigation between the counties and the company over the subsidies, and the newspapers of San Francisco had from the first ridiculed the presumption of these obscure Sacramento people in thinking they could, without capital, build a transcontinental railroad. The stage companies and all persons whose business was necessarily interfered with by the construction of a railroad, were bitter in their opposition to the "Dutch Flat Swindle," as they called it. They said that the difficulties in crossing the heights above Dutch Flat were insuperable; that the Central Pacific managers knew such to be the fact, and that all they contemplated was to get up high enough to reach and connect with their Dutch Flat wagon road and thereby monopolize the valuable transportation business to

and from the Nevada mines. It was also claimed that Judah knew that the route was a hopeless one and that the company had given him one hundred thousand dollars of its first mortgage bonds not to expose his knowledge of the route.

While Huntington looked after legislation in Washington, Stanford had charge of that in the west. Not only had the legislature of California to be cared for but that of Nevada also. Stanford had successfully opposed a clause in the constitution of that state permitting the legislature to donate to the first railroad company which should connect Nevada with navigable waters three million dollars in bonds after pleading in vain for the donation to be made direct to his company; and the first legislature, in 1864, after reciting the fact that the Central Pacific had completed but thirty miles of its road, while there was a railroad thirty-eight miles long, commencing at Freeport, at the head of navigation on the Sacramento river, and extending in nearly a direct line with the capital of Nevada, and which would, with reasonable encouragement, push forward to that point, asked congress to grant in United States bonds ten millions of dollars to the first corporation which should complete an unbroken line of railway, in perfect running order, from the navigable waters of the Sacramento to the eastern base of the Sierra Nevada. As congress had already subsidized the Central Pacific company, it was not at all likely to take up another company until the first had demonstrated its inability to comply with the requirements of its charter.

The passage of the amended railroad act of 1864 made a change in the policy of the company. The first contracts for building the road were let to Charles Crocker and Company, composed of Stanford, Crocker, Huntington, and Hopkins, and by them let to sub-contractors. Now, with the abundant means supplied by the state and the general government, they concluded to accept for themselves the profits to be made in the construction of the road, and the sub-contractors were dismissed. From Newcastle to the eastern boundary of California the road was built by Charles Crocker and Company as a firm. Then they formed the Contract and Finance company and set out on their rapid work across Nevada and Utah to meet the Crédit Mobilier of America which was constructing the Union Pacific. What their profits were as contractors we do not know; but we do know, through congressional investigation, that the Crédit Mobilier* received for building the Union Pacific road, the net proceeds of the bonds issued by itself and by the government, $50,863,-172.05, covering the full cost of the road and a little more, and in addition, $23,000,000 in stock, income bonds, and land grant bonds—being a profit of forty-five per cent. Through an injudicious distribution of shares of the corporation among sundry congressmen and senators, in fear of adverse legislation, this construction company brought upon itself a congressional investigation which proved the graveyard of some very high reputations. The Contract and Finance company did no such foolish thing and were not investigated.

*A construction company originally chartered as the Pennsylvania Fiscal Agency in 1859. The stock was secured by Durant and his associates of the Union Pacific company and the name changed.

The managers now began to buy in the stock they had previously sold for the purpose of launching the company. They put on a large number of men and pushed the work vigorously. As it was difficult to get white labor for railroad work in the state, they put on, in the summer of 1865, about two thousand Chinamen who proved excellent workers. A large number of Chinamen were imported for the purpose and during the last few months of the construction period, as many as ten thousand men, mainly Chinese, were in the field. The work was in charge of Crocker and it was due to his skill as an organizer and strength and energy as a builder that it went forward as it did. The construction of a railroad from Sacramento over the Sierra Nevada presented difficulties of a most formidable character. The average length of the western slope from base to summit is about seventy miles with the lowest pass about seven thousand feet altitude. The general course of the range is northwesterly and the slope extends therefore in a southwesterly direction, which is the general course or direction of the rivers and streams thereon; those between thirty-eight and a half and forty-one degrees of latitude, having their sources near the summit, being the north, middle, and south forks of the American, the Bear river, Deer creek, north, middle, and south forks of the Yuba, and the north, middle, and south forks of the Feather. These rivers run through gorges or cañons, in many places from one thousand to two thousand feet in depth, with side slopes varying from perpendicular to an angle of forty-five degrees. The branches also of many of these rivers have worn out

gorges as deep as those of the rivers and present physical barriers to a line of communication. The ridges formed by these rivers are sharp and in many places so narrow on top as to leave barely room for a wagon road to be made without excavating the surface of the ridge. The line of top or crest of ridge being far from uniform, the lowest points or gaps in the ridge became commanding points, and it was found necessary to carry the line of railroad from gap to gap, passing around the intervening hills upon their side slopes or piercing them with tunnels. One such hill, just above Colfax, is Cape Horn, a bold rocky bluff, nearly perpendicular, and twelve hundred feet high above the north fork of the American river. The road passes around the face of this bluff, about two hundred feet below the table above, on what is virtually a shelf cut from the rock. A wagon road connecting the town of Auburn with Forest Hill and other towns on the east side of the north fork of the American is excavated on the face of a steep side-hill, which is about one thousand feet high, following the bends and sinuosities of the river which is reached in four miles of road, or a total of eight miles in length for the two sides, with a grade varying from two hundred and fifty to three hundred feet to the mile. Some wagon road crossings are even more difficult, reaching to fifteen hundred perpendicular feet with descent and ascent ten miles in length, with a grade varying from three hundred to four hundred feet to the mile, in order to reach across a direct line of about three miles.* It was thus seen

*Report of Judah, 1861, p. 7-8.

that in order to reach the summit a railroad would have to avoid the crossing of any of the cañons, for even if practicable, the cost would be prohibitory.

Judah's survey therefore crossed no rivers but laid its course along an unbroken ridge from the base to the summit of the mountains. From Rocklin to Bear valley the ridge lay between the north fork of the American and the Bear river. These rivers gradually approach each other until at Colfax (Illinoistown), they are less than three miles apart, and at no time thereafter is the distance between them five miles. The ravine of Bear river widens out sixteen miles above Dutch Flat into a beautiful valley two miles long and one mile wide, called Bear valley. Diminished in size to a small creek, Bear river passes through this valley and loses itself in the benches above. Into this valley now comes the south fork of the Yuba from the summit, and augmented by many large branches, forces a passage through the north wall of the valley and flows to the northwest. Holding to the ridge, the northern border of which is now taken by the south fork of the Yuba, the road passes upward and enters Summit valley, a beautiful valley two and a half miles long by three-quarters of a mile wide, whence the summit is reached at Donner pass at an elevation of seven thousand and eighteen feet. It had reached that elevated station by a maximum grade of one hundred and sixteen feet per mile.* All the work was well done. Tunnels, trestles, culverts, etc., a telegraph line, snow sheds, water tanks,

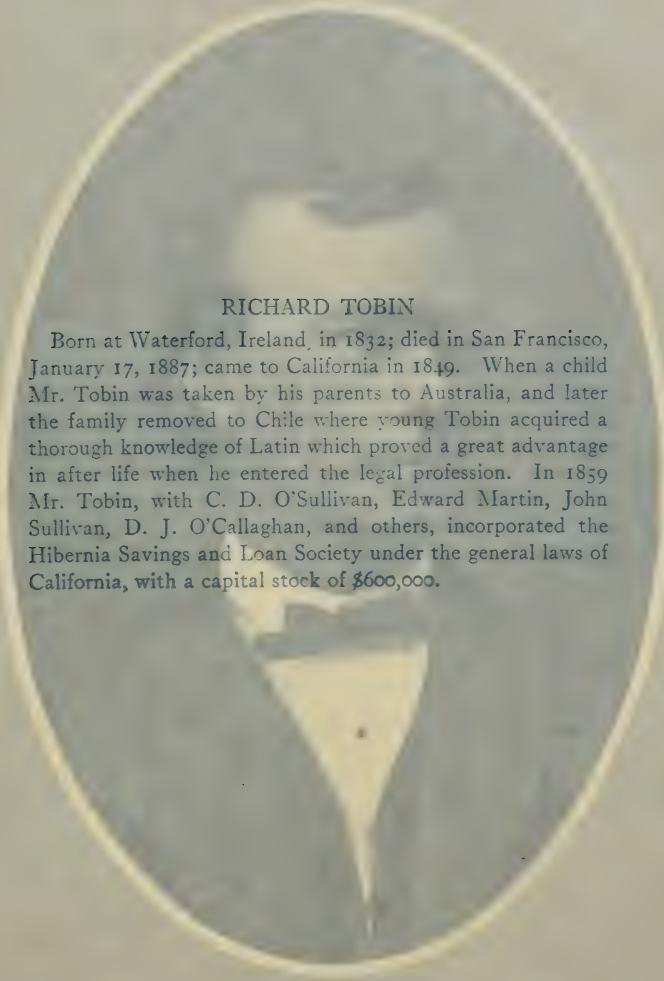
*Judah's survey shows but 2.84 miles at 116 feet per mile, and 43.08 miles at 105 feet per mile.

depots and all the equipment of a first class line were constructed as the road progressed.

From the summit looking easterly one appears to be standing upon a nearly perpendicular rock, one thousand feet in height. Immediately below is seen a valley from one to two miles wide, extending from the Truckee river to the foot of the precipice, with Donner lake occupying the upper part of it. Beyond the Truckee river is seen the second summit of the Sierra Nevada, and beyond that rises in the distance the Washoe mountains.

A cross section of the main range of the Sierra Nevada presents a profile showing two summits about thirty-five miles apart with a range of elevated table land lying between. Lake Tahoe lies in this valley and is surrounded by mountains and lofty peaks excepting at one point on its western shore where the Truckee river forms its outlet. Running first northerly about twelve miles; then northeasterly about eighteen miles; thence sweeping easterly the river passes through the second range or summit to the Truckee meadows; thence through the Washoe mountains to the lower crossing (Wadsworth); thence northerly about twenty miles, it finds its way into Pyramid lake. Thus, by following the route of the Truckee river, the western summit was entirely avoided.

By the use of the side-hill of the spur or range above Donner lake the Truckee river was reached in a distance of twelve miles, with a descending grade of one hundred and five feet to the mile. Thence for thirty-five miles at a grade of thirty feet to the mile, the road runs beside the sparkling waters of the Truckee and emerges



RICHARD TOBIN

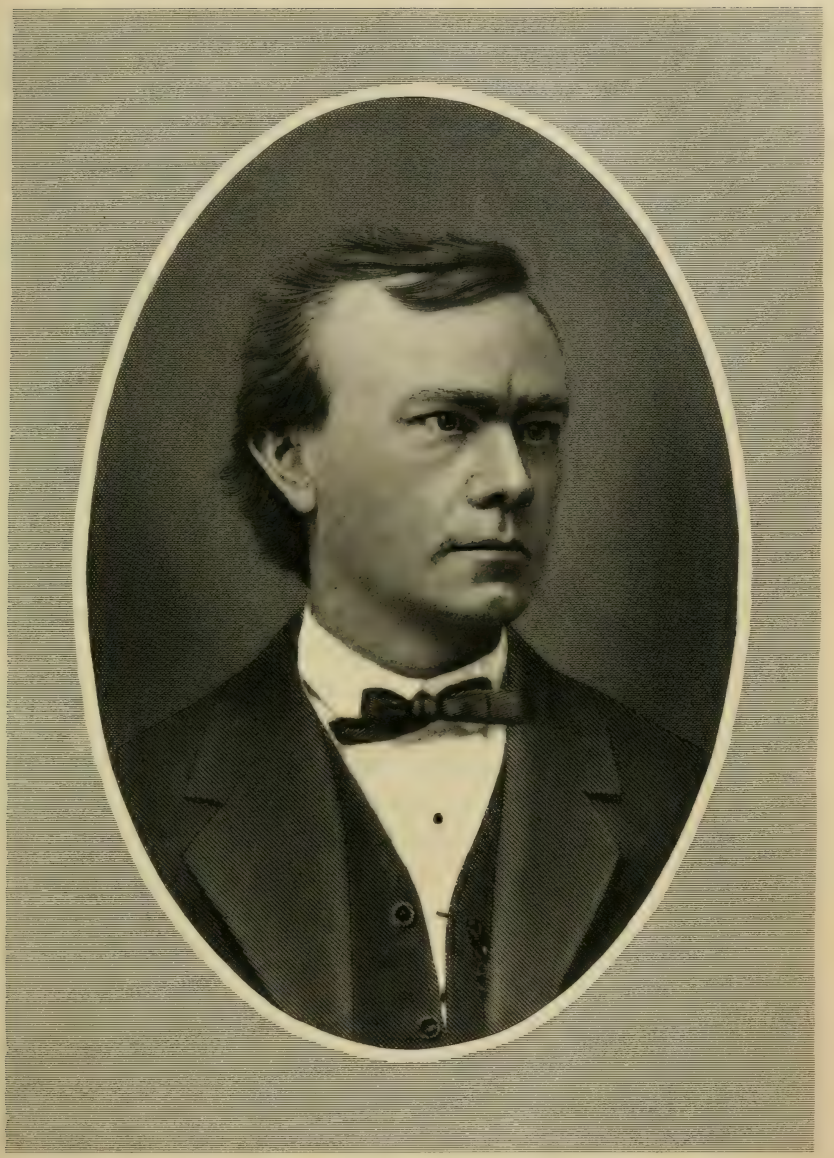
Born at Waterford, Ireland, in 1832; died in San Francisco, January 17, 1887; came to California in 1849. When a child Mr. Tobin was taken by his parents to Australia, and later the family removed to Chile where young Tobin acquired a thorough knowledge of Latin which proved a great advantage in after life when he entered the legal profession. In 1859 Mr. Tobin, with C. D. O'Sullivan, Edward Martin, John Sullivan, D. J. O'Callaghan, and others, incorporated the Hibernia Savings and Loan Society under the general laws of California, with a capital stock of $600,000.

depots and all the equipment of a first class line were constructed as the road progressed.

From the summit looking easterly one appears to be standing upon a nearly perpendicular rock, one thousand feet in height. Immediately below is seen a valley from one to two miles wide, extending from the Truckee river to the foot of the precipice, with Donner lake occupying the upper part of it. Beyond the Truckee river is seen the second summit of the Sierra Nevada, and beyond that rises in the distance the Washoe mountains.

A profile showing the summit of the Sierra Nevada presents a plateau of about thirty-five miles in length, with a range of elevated table land lying to the north and south of this valley and is surrounded with high mountains, except at one point on its northern side, where the Truckee river leaves its outlet. Running first northerly about twelve miles, then northeasterly about eighteen miles; thence sweeping easterly the river passes through the second range or summit to the Truckee meadows; thence through the Washoe mountains to the lower crossing (Wadsworth); thence northerly about twenty miles, it finds its way into Pyramid lake. Thus, by following the route of the Truckee river, the western summit was entirely avoided.

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Richard Taylor



from the Sierra Nevada into the Truckee meadows, a beautiful grassy plain, where the Donner party had rested three or four days in October, 1846, before attempting the ascent of the mountains.

With the assistance of a paternal government the company had accomplished its work in spite of opposition and of adverse conditions, and now, like a young giant full of vigor, was ready for further conquest. It did not intend to rest, but was determined to push forward to meet the Union Pacific at Salt Lake, if possible, and bid for its share of the trade of the Mormon settlements.

Now began a great race between the two roads for the Utah trade and, incidentally, land and bonds. The Pacific railroad bill had determined that, as the country between the Rocky mountains and the Sierra Nevada was mountainous in character, the bonds issued by the government should be double the amount issued for the level sections. There is no doubt concerning the mountainous character of the country, but the route pursued across the Great Basin, as shown by Judah's report, has 365 miles with a grade of four feet per mile or less, while of the whole line of 555 miles, 539 had a grade not exceeding thirty-one feet to the mile.

When the Central Pacific road reached the boundary line of California, the Union Pacific had constructed, from the Missouri river, 550 miles of road up the valley of the Platte. Each company now put out its best effort. Leaving the Truckee river at the lower crossing, the construction company of the Central Pacific plunged into the dreadful Forty-five Mile desert, sometimes called Humboldt desert, which had proved

so deadly to the emigrants of 1849 and 1850. Reaching the Sink of the Humboldt the road followed the valley of that river to its head waters at Humboldt Wells; thence around the northern end of Salt Lake, its completed track met that of the Union Pacific at Promontory point, fifty-three miles west of Ogden. The rich reward granted for this easy portion of the road, $64,000 in bonds and 12,800 acres of land per mile, spurred each company to its greatest activity. It was the last chance at the national treasury and both strained every nerve to accomplish all the mileage possible. The Union Pacific threw out graders into the Humboldt valley, where some miles of track were actually laid by them, with which they never made connection, and in retaliation, the Central Pacific sent its graders east of Ogden, filing at the same time a map of its route to Echo summit and demanded, under the provisions of the act of 1864, two-thirds of the bonds allowable for the division.

The Central Pacific now endeavored to induce congress to make the legal junction of the roads at Ogden, but this congress would not do, it being in evidence that the completed track of the Union Pacific was twenty-five miles west of Ogden at the time the Central Pacific was seventy miles west. The Central Pacific wished to buy the rights of the Union Pacific west of Ogden, but the Union Pacific declined to sell. On April 28, 1869, the completed tracks met, as stated, at Promontory point, and on that day the Central Pacific performed the remarkable feat of laying in one

day ten miles of railroad. Congress by joint resolution provided that the common terminus of the two companies should be at Ogden, or near it; that the Union Pacific should build and the Central Pacific should pay for and own the road from Ogden to Promontory point, and the latter obtained, at cost price, that part of the Union Pacific road from Promontory to within five miles of Ogden, which five miles the Central Pacific secured by lease.

The 10th of May, 1869, was set for the ceremony of joining the roads at Promontory. About a thousand persons were present including the officers, directors, and employes of the two companies with their invited guests, a delegation from Salt Lake City, several companies of the Twenty-first infantry, with band, from Camp Douglas, and a number of Indians. The place was a grassy plain between green hills near Great Salt Lake. At eleven o'clock a train from the west drawn by a decorated engine approached the gap left between the rails. From the east came another train with its equally decorated locomotive and drew up on that side of the gap. The rails were laid and under the ends was placed the last tie, a beautifully polished stick of California laurel, having in its center a silver plate bearing the names of the officers of both companies; a spike of gold was placed in a cavity prepared for it and driven home by a silver hammer in the hands of President Stanford of the Central Pacific. Then followed addresses, music, the reading of congratulatory telegrams from east and west, and a feast. Then the Union Pacific train with the officers of the

company aboard passed over the connecting rail and backed upon its own track. The Central Pacific train ran over it and also returned. The great work was accomplished.

"What was it the engines said,
Pilots touching—head to head,
Facing on a single track,
Half a world behind each back?
This is what the engines said,
Unreported and unread;
With a prefatory screech,
In a florid western speech,
Said the engine from the west:
'I am from Sierra's crest,
And if altitude's the test,
Well, I reckon, its confessed,
That I've done my level best.'
Said the engine from the east:
'Those who work best talk the least.
S'pose you whistle down your brakes,
What you've done is no great shakes,
Pretty fair—but let our meeting
Be a different kind of greeting.
Let those folks with champaign stuffing,
Not their engines, do the puffing.'
That is what the engines said,
Unreported and unread;
Spoken slightly through the nose,
With a whistle at the close!"

We have seen the organization in 1862 of the Western Pacific railroad company to form the connecting link between Sacramento and San Francisco and the assignment to it by the Central Pacific of the grant and privileges derived from the Railroad Act of 1862. This assignment was confirmed by congress in 1865, and it

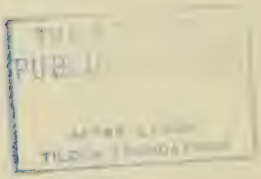
received in United States bonds $1,970,560. In 1868 the Oakland Water Front company was incorporated for the purpose of owning and constructing docks, wharves, piers, etc., and its owners were closely associated with the Western Pacific Railroad company. Occupying the eastern shore of the Bay of San Francisco opposite the city of that name, was the great San Antonio grant given to Sergeant Luis Peralta in 1820, comprising eleven leagues of land and extending on the bay from San Leandro creek to Point Richmond. Don Luis divided this property among his four sons, giving one-fourth to each; the division lines running from the bay eastward. The grant extended to deep water on the bay ("profunda mar") and the lines of the survey ran to and included the island of Yerba Buena. After the coming of the Americans the Peraltas were greatly troubled with squatters who conducted themselves in a high handed manner. Among these squatters were Horace W. Carpentier, Edson Adams, and A. J. Moon, who in 1850 obtained each a lease of one hundred and sixty acres from Domingo Peralta. Carpentier, a lawyer, gained the confidence of Domingo Peralta and his brothers and was employed by them to present their claims to the land commission and secure United States patents for their lands. In pursuance of his duty towards his clients Carpentier had a new survey made of the grant and "surveyed out" all the water front below high water line. In the meantime quite a village had been formed by the squatters near what is now the foot of Broadway and was known by the name of Contra Costa. Carpentier went before the legislature in May, 1852, and procured the incorporation

of the town of Oakland, and had the legislature grant to it all the water front of the town between high water and the ship channel. A board of five trustees consisting of H. W. Carpentier, Edson Adams, Albert J. Moon, Amidee Maurier, and Albert W. Barrell was elected. Adams and Moon were partners of Carpentier while Maurier and Barrell were devoted to his interest. Carpentier did not qualify as a trustee of the town and on May 27, 1852, the board passed an ordinance granting to Carpentier the use of the water front, from high water line to the ship channel for the term of thirty-seven years with all rights and privileges of docks, wharves, etc., in consideration of the building of a school house and three wharves by Carpentier. These improvements cost Carpentier between thirty and forty thousand dollars. In 1854, the town having repented its hasty action in giving away its water front, the board of trustees passed a bill providing for action to recover this property, which bill was vetoed by Horace W. Carpentier, Mayor. In 1867 the Western Pacific Railroad Company asked for a terminus on the Oakland water front, and found that the city had no property to offer. A suit was then begun to set aside the deed of 1852, but the city was beaten. In April, 1868, the Oakland Water Front company was incorporated with a capital stock of fifty thousand shares of par value of one hundred dollars each, of which Horace W. Carpentier owned twenty-five thousand shares, Leland Stanford twenty thousand and John B. Felton five thousand. Carpentier deeded to the corporation all the water front of the city of Oakland as described in the incorporation act of 1852, and on April 1, 1868, the



OAKLAND
Lake Merritt





Water Front company conveyed to the Western Pacific railroad company five hundred acres of this tide land.

In 1867-8, the legislature granted the Terminal Central Pacific railroad company one hundred and fifty acres of tide and submerged land with two hundred feet right of way on the Alameda shore and thirty acres of tide lands in front of Mission bay, San Francisco, for terminal purposes to each the Southern Pacific and Western Pacific railroad companies, and with the building of piers and ferry steamers the line from the Missouri river to the Pacific ocean at San Francisco was complete. Thomas H. Benton, the grand old man of the west, whose strong hand had for so many years controlled its destinies, was dead. He did not live to see the accomplishment of the project that was so near his heart. It was not built on his lines or according to his plans. The great power placed in the hands of the owners of the road; the enormous credits furnished them and the millions of acres of public lands given them would have met with his strong disapproval and elicited his bitterest denunciation.

The building of the road did not bring peace to the world, as some of its enthusiastic supporters anticipated, nor did it prove to be a road to India, as the opening of the Suez canal about the same time secured that route for England; yet it was, in a way, a road to Far Cathay and the Orient. The cargoes of silks, teas, and such valuable goods come into the port of San Francisco, are transferred to cars on the wharves and are sent by special trains across the American continent for transshipment to Europe. Neither does the United States control the carrying trade of the Pacific. Her

flag has all but disappeared from the seas. Fenced in by a high wall of protection her ship builders cannot compete with the cheap materials and low priced labor of Europe, nor can the American ship with its well paid crew compete in oversea trade with the foreign ship operated at one-half her expense.

I cannot, in the space allowed for this chapter, go into the details of Central Pacific expansion in California, whereby the original quartette of railroad builders became masters of almost the entire carrying trade of the Pacific coast, but will confine myself to the construction of the main line. In 1871 the directors of the Central Pacific purchased a three-quarter interest in the California Pacific road, a line running from Sacramento to Vallejo and connecting with San Francisco by steamer. By extending this line from Vallejo to Benicia and crossing the straits of Carquinez by ferry boat to their Southern Pacific line at Port Costa, they had a direct line of ninety miles from Sacramento to San Francisco as against one hundred and forty miles by the Western Pacific. This became and continues to be the final link in the main line of the Pacific railroad.

The bonds issued to the Central Pacific company and to the Western Pacific, to aid in constructing the road amounted to $27,855,680. These bonds maturing in 1898 were retired in 1899 by the acceptance by the government of notes of the company, at three per cent for $58,812,715.60, covering both the government lien and the companies' first mortgage bonds, payable, one-tenth each year for ten years, and secured by the companies' four per cent refunding bonds. These

notes have all been paid. The actual cost of building the Central and Western Pacific is not known; but according to the estimates made at the time the real cost did not exceed $40,000,000 for which the builders received $55,711,360 in bonds. In addition, there was the land grant* and the road with all its equipment—a free gift from the people. Besides its main line—San Francisco to Ogden—the Central Pacific owns, in California, 623.07 miles of railroad, while its owners have built and bought the Southern Pacific lines, mileage 3332.33, the South Pacific Coast railroad, 98.66 miles, the Oregon and California railroad, 665.04 miles and other lines connected with the Southern Pacific, making with those stated above 9,109 miles of road, not counting second tracks or sidings, and also several steamship companies, both deep sea vessels and inland waterway lines. The four small merchants of Sacramento certainly showed remarkable ability in the prosecution of their various enterprises. They became great magnates and died very wealthy men, leaving fortunes estimated at from $40,000,000 to $65,000,000 each; and whatever may be the opinion in regard to their methods—such as the shutting out of competitive lines, discriminations, preferences, and advantages; the fixing of rates to cover all that the traffic would bear; the resistance of taxation and the repudiation of all obligations to the government that had given to the corporation life and being, with the corruption of public officials and legislatures, and all

*The total grant to the Central Pacific and its extensions was 9,379,141 acres; to the Atlantic and Pacific, 14,539,804; and to the Southern Pacific, 9,012,146 acres; all belonging to the Central Pacific group of owners.

the thousand and one offences against the people—there can be no doubt that the railroad has been of enormous benefit to California and the Pacific coast territory.

CHAPTER VII.

CHINESE IMMIGRATION AND THE SAND-LOT AGITATION

IT has been claimed that the aborigines of the Pacific coast of North America are descended from the Chinese. However that may be, the first Chinese in modern California were two men and one woman who came from Hong Kong in the bark *Eagle* in 1848 with Charles V. Gillespie, who proposed to introduce Chinese immigrants into California. By January, 1850, the number of Chinese in California had increased to 787 men and two women. They were gladly received and treated with consideration, and on the occasion of the services on the death of President Taylor, held in San Francisco August 29, 1850, they were invited to join and were given a prominent place in the procession; and again at the celebration in San Francisco of the admission of California into the Union, a company of Chinese in rich native costumes, under their own marshall, and carrying a blue silk banner inscribed "The China Boys," formed a noticeable and attractive feature of the procession. In January, 1852, the Chinese in California had increased to 7,512 men and eight women but during that year the immigration became very large and there were added to the Chinese population in California 18,024 men and fourteen women. In Governor McDougal's message to the legislature January 7, 1852, he said, in reference to the swamp and overflowed lands given the state by congress in September, 1850, that a large portion of the state, now lying in a useless condition, could, by a system of grants to settlers on condition of reclamation within a certain time, be made productive, contribute largely to the state, "and induce a further immigration of the Chinese

—one of the most worthy classes of our newly adopted citizens—to whom the climate and the character of these lands are peculiarly suited." Like the white immigrants, the Chinese first flocked to the mines, where they worked, as a rule, only the claims abandoned by white miners, being satisfied with small returns. For a while they were unmolested but soon the desire to expel "foreign vagrants" from the mines manifested itself and the Chinese, Mexicans, and South Americans were the chief sufferers. At the behest of the miners the legislature imposed a tax of twenty dollars per month on all foreign miners, in the form of a license, but the tax was not rigidly enforced against any save Chinese and Spanish-Americans. Unable to make a living at the mines, by reason of the oppressive tax and the unfriendly attitude of the miners, the Chinese soon began to branch out into other occupations. They hired out as household servants and as laborers; they became laundry men; they established bars and restaurants in many of the mining towns and turned their attention successfully towards many industries which they thought would not interfere with white labor.

So oppressive was this foreign miners' tax and so difficult to collect that the legislature repealed it in 1851, and later, in 1852, reënacted it at the reduced rate of three dollars per month; then increased it to four dollars per month and after several changes it remained at that figure for many years.

The large increase in the Chinese immigration in 1851 and 1852 began to arouse the dislike of the laboring classes. Their industry, their economy, their

adaptability to any class of work, excited the prejudice and ill-will of those who could not see any value to the country in their labor. The Chinese laborers came to the country under a system of contract by which their passage was paid and they were to labor for a stated term at certain wages, and the business of hiring them out and administrating their affairs generally was in the hands of associations organized in accordance with Chinese laws and to these associations or companies they owed fealty. These organizations, known as the Six Companies,* became very wealthy and powerful. They had their own tribunals whose processes and decrees were executed swiftly and without regard to the law of the land. They protected their officers—known to the white men by the name of "high binders," or "hatchet-men" — whenever they were brought into conflict with the laws of the state through the carrying out of their own decrees, and it is seldom the state can secure the conviction of a Chinaman who has done execution on the body of an unfortunate offender of Chinese company law.

The coolie was not bound to his company indefinitely. When he had paid all claims against him he could walk forth, a free man, to come and go as he listed. One of the agreements to which the company bound itself was to return the immigrant to China, dead or alive. If the immigrant elected to remain in America, well and good; but if he died in service, his bones were shipped to China.

*Ning Yung, Hop Wo, Kong Chow, Yung Wo, Sam Yup, and Tan Wo.

Notwithstanding the great need of California for labor, the cry was early raised that the presence of the Chinese in the country tended to injure the interests of the working classes and degrade labor. It was argued that no good could come from allowing an inferior race, not in bondage and not citizens, to compete in the labor market. They simply, by their numbers and by taking less wages than white men, deprived the latter of the money they should have earned, and instead of investing it in the state, carried it to China.

"Then I looked up to Nye,
And he gazed upon me,
And he rose with a sigh,
And said, 'Can this be?
We are ruined by Chinese cheap labor,'
And he went for that heathen Chinee."

But the economic objection was not the only one urged against Chinese immigration. The habits and practices of this people were abominable and their presence in any number, as the Chinese quarter of a city, was objectionable and deprecative of real estate values. However neat and clean the individual Chinaman appears to be, collectively they herd together in the closest quarters, sleeping as many as can be packed into space, without ventilation, and they live surrounded by filth that smells to heaven.* Their opium dens are scenes of disgust and horror, and their ideas of morality are widely different from those of western nations. They are inveterate gamblers; their

*When the Chinese quarter of San Francisco was being rebuilt after its purification by fire in 1906, it was remarked that about the first thing reconstructed was the smell.

games are conducted under the very noses of the Chinatown squad, and it is common belief that they pay liberally for police protection.

Many laws have been enacted by the legislature, such as imposing heavy fines upon persons bringing to these shores any subjects of China or Japan without first presenting to the commissioner of immigration evidences of good character; forbidding the employment of Chinese on public works of any kind; forbidding the employment of Chinese in the construction of canals provided for in the irrigation district act of 1876; forbidding aliens debarred from citizenship from acquiring title to real estate; these and many other laws and ordinances were set aside by the supreme court.

On the other hand, the Chinese were the best, most faithful, most easily managed, and most reliable of laborers. In California where the need was so great for all kinds of labor, they were almost invaluable. Intelligent, quick to learn and understand, they made most excellent household servants; honest and capable, they filled all grades of house service, even to purveyors and stewards. In gardening, farming, viticulture, horticulture, laundrying, mining, lumbering, and in the great fisheries, protected by laws and by the better sentiment of the intelligent and right minded, the Chinese held their ground; were in constant demand, and came at last to engage in manufactures, such as shoemaking, cigarmaking, ready made clothing, and other trades. The railroads would hardly have been built when they were, nor would the fruit of California be picked today without their help. We have seen their employment in the work of the Pacific railroad.

In the days of the unrestricted immigration of the Burlingame treaty the Chinese six companies would take a contract to furnish any responsible corporation with as many coolies as desired; the work was satisfactorily done and the laborers did not strike. This was a most serious grievance on the part of other foreign laborers, not more American in spirit than they, but who had been admitted to citizenship and enjoyed political privileges.

In 1852 a bill was introduced in the California legislature whose object was to provide for the enforcement in the courts of the state of contracts made in China. The bill received a favorable report by a select committee to whom it was referred but it was opposed by a minority report which claimed that its object was to introduce the cheap labor of Asia and put it in competition with the labor of our own people. Under this bill, it was contended, the Chinese government could send to us not only its paupers but its criminals as well. A government as skillful in tact as that of China would not fail to perceive the advantage of permitting its criminals to emigrate. From the corrupt conduct of Chinese officials in the opium trade, it was to be expected that every malefactor in their prisons would be sent to California as a contract laborer. Criminals, it was true, had not come in numbers because the Chinese in California had been sent by contractors who held their families as hostages; but if the system had so far worked well, it was probably only owing to the limited number sent. However, the allowance of this immigration and the commingling of races would expose our own people to pestilence as

foul as leprosy and the plague, which with the howlings of insanity would be likely to devastate the land. Instead of this, it was the policy of the government to elevate the people; and to do so its labor would have to be protected and not degraded.

Such were the arguments adduced against the Chinese at the beginning of the movement against them, and the bill was defeated April 12th. Additional impetus was given the anti-Chinese movement by a special message sent to the legislature by Governor John Bigler, April 23, 1852, in which he said that it was very important to adopt measures to check the tide of Chinese immigration. The message alluded to the importation of coolies under contract and held it unsafe to admit them as citizens and unwise to receive them as jurors or permit them to testify in court, if, as he assumed, they were ignorant of the solemn character and indifferent to the solemn obligations of an oath to speak the truth. The coolies, he said, were given free passage out to California and back to China with wages of from three to four dollars per month while the usual wages to coolies in China was one dollar per month and enough food to sustain life. Most of the coolies sent here were married and while they were absent, from one dollar and a half to two dollars per month was paid to their families for subsistence, the amounts deducted from their wages, and their families were retained as hostages for the faithful performance of their contracts for labor. These contracts were against good order and the solid interests of our society and ought not to be recognized or enforced within the limits of this state; the governor proposed

such an exercise of the taxing power by the state as would check the immigration, and he recommended a demand by the state that congress should prohibit the coolies shipped to California under contracts from laboring in the mines.

The Chinese objected to some of the governor's assertions and appeared before a legislative committee and claimed that their testimony was not received in controversies with Americans and that they were taxed without being protected. They said that some of their people had been brought here under contracts to labor for employers, but that the practice had been found unprofitable and had been abandoned. Most all had come as their own masters and with their own means. Some had borrowed money and pledged their property; some had agreed to give the proceeds of their labor for a certain time, and some had pledged their children to be owned as slaves in case of non-payment. They estimated the Chinese capital employed in this state, other than that employed in mining, at two millions of dollars.*

In 1867, Anson Burlingame, who had been minister of the United States to China, was appointed by the government of that country envoy extraordinary and minister plenipotentiary to head a Chinese diplomatic mission to the United States and the principal European nations. He reached the United States in March, 1868, and on the 28th of July of that year concluded a series of articles supplementary to the Read treaty of 1858 (a modification of the Cushing treaty of 1844 and 1850). This was later known as the Burlingame treaty and

*Hittell, *History of California, Vol. IV, p. 110.*



SAN FRANCISCO

The Flower Vendors

Scene at corner of Kearny and Market streets. This sidewalk flower market extends throughout the year, and a few cents will buy a large bunch of flowers.

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*Bancroft, History of California, Vol. VI, p. 120.





ratifications thereof were exchanged at Peking, November 23, 1869. The treaty gives China the right to appoint at ports in the United States consuls who shall enjoy the same privileges and immunities as those enjoyed by the consuls of Great Britain and Russia, and provides that citizens of the United States in China of every religious persuasion and Chinese subjects in the United States shall enjoy entire liberty of conscience and shall be exempt from all disability or persecution on account of their religious faith or worship in either country, and grants certain privileges to citizens of either country residing in the other, the privilege of naturalization, however, being specifically withheld. Among these privileges was that of the right of admission to the public schools of the United States and the establishment of American schools in China.

Against this liberal and just policy the anti-Chinese party in California protested; and as the years passed rebelled more and more strenuously. In response to agitation in California congress passed several acts affecting the Chinese not considered as being in violation to the treaty, such as prohibiting the bringing to the country of any person under compulsion, for which a penalty of $2,000 fine and a year's imprisonment was provided: intended to prevent the importation of Chinese women for immoral purposes, and the importation of laborers under contract was made subject to a penalty of $500. But none of this legislation could reach the real evils of which the working men of California complained; the greatest of which was that the Chinese were absorbing the industries of California to the exclusion of the white workmen.

Many efforts were made by the California delegation in congress to change some of the provisions of the Burlingame treaty but in vain. They were accused of having a hysterical mania on the Chinese question, and it was determined by eastern senators to extend to this race the constitutional provisions which the authors of our organic law provided for the people of enlightened nations, and they insisted that the majority of the people of California, of all classes, were as much governed by jealousy as was a disorderly alien element whose doings had been bruited by a sensational press at home, and freely criticised by the press abroad.*

Meanwhile, under the Burlingame treaty, the Chinese continued to come in great numbers. The Pacific Mail Steamship company put on a line of steamers between San Francisco and Chinese ports in 1867, and these steamers, on the inward voyage, were crowded with Chinese immigrants whose landing was the occasion of riot and disorder. Wagons bringing Chinese from the mail dock to the Chinese quarter were followed by crowds of men and half-grown boys (hoodlums) who with hoots and verbal abuse pelted them with stones and other missives without interference from the police. Not only were the Chinese exposed to attacks upon their camps in the mining regions, but riots occurred in various cities, and Chinese laundries were sacked and burned and the workers badly beaten and killed. Governor Booth, in his inaugural address, December 8, 1871, said: "Mob violence is the most dangerous form in which the law can be violated, not merely in its immediate outrage

*Bancroft, *History of California, Vol. VII, p. 346.*

committed, but in the results which often follow—communities debauched, jurors intimidated, and courts controlled by the political influence of the number that are guilty. The unsuccessful prosecutions for the crimes of a mob teach that the number and boldness of the prepetrators too often give immunity to the offense; and not only is the crime unpunished, but justice is mocked in her very temples by the erection of a tribunal higher than the law. And when, to all this, banded ruffianism selects for its victims a race notoriously defenseless; when pillage and murder are its exploits, the race from which such wretches are recruited, the community which suffers such deeds to be enacted, the officials who stand supinely by without an effort to prevent the crime, are sharers in a common disgrace; and the statute which prevents the victim from testifying, becomes party to the offense. I trust that during my administration the spirit of lawless violence, which has sometimes disgraced our past, may never be exhibited. Should it be, there will be no exertion spared on the part of the executive to extend to all, from the humblest to the highest, the sovereign protection of the law and to visit the guilty with the punishment their crimes deserve."* The statute referred to by the governor was one excluding Indians and negroes or mulattoes from giving evidence in favor of or against a white person either in civil or criminal cases, adopted in 1850, and enlarged by Chief Justice Hugh C. Murray of the state supreme court in 1854. The chief justice held that the word "Indian" as used in the statute, included not only the North American

*Senate Journal, 1871-1872, p. 115-116.

Indians but the whole Mongolian race. He acknowledged that the word, as commonly used at the present day, was specific and not generic, and referred only to North American Indians; but he claimed that as in the days of Columbus all the countries washed by the Chinese waters were denominated the Indies, therefore all the Asiatics were Indians and inhibited by statute from testifying against a white man; and he said: "The anomalous spectacle of a distinct people—living in our community, recognizing no laws of this state except through necessity, bringing with them their prejudices and national feuds in which they indulge in open violation of law, whose mendacity is proverbial, a race of people whom nature has marked as inferior and who are incapable of progress or intellectual development beyond a certain point as their history has shown, differing in language, opinion, color, and physical conformation, between whom and ourselves nature has placed an impassable difference—is now presented; and for them is claimed, not only the right to swear away the life of a citizen, but the further privilege of participating with us in administrating the affairs of the government."* The penal code submitted by the code commissioners of 1872 remedied this condition by providing that Indians and Chinese should be allowed to testify in the courts the same as white persons.

On the part of employers it was argued that certain manufactories could not be operated without Chinese cheap labor; that railroads could not be built without

**People vs. Hall, 4 California, p. 399-405.* Cited by Hittell, *History of California, Vol. IV, p. 112-113.*



SAN FRANCISCO

Union Square

This is one of the smaller squares and is in the heart of the retail district.

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it; and that house-servants could not be obtained except from among this people. Stanford said of them that they were quiet, peaceable, industrious, and economical—ready and apt to learn all the different kinds of work required in railroad building, and quite as efficient as white laborers; and he further said that without them it would be impossible to complete the western portion of the Pacific railroad within the time required by the acts of congress. In regard to domestic service, it was claimed that a Chinaman would do more and better work in the kitchen than a female cook, and that on the farm he was indispensable.

Meanwhile the agitation for the restriction or prohibition of Chinese immigration continued. The Californians sent delegations to congress and congress sent investigation commissions to California, and finally, in 1880, the president appointed three commissioners, James B. Angell of Michigan, John F. Swift of California, and William Henry Trescott of South Carolina, to proceed to China for the purpose of forming new treaties. The commissioners were fortunate in finding the Chinese plenipotentiaries willing to concede to the United States the control and regulation of immigration, and on the 18th of November, 1880, it was agreed that whenever, in the opinion of the government of the United States, the interests of the country were endangered by the coming to or residence in it of the Chinese, such coming might be suspended for a time, the limitation to apply only to laborers and not to other classes. The Chinese already in the country were accorded all the rights, privileges, immunities, and other exemptions accorded to citizens

of the most favored nation. This treaty was ratified by the senate on May 5, 1881, and ratification was exchanged at Peking July 19th of the same year. A supplemental treaty concerning commerce agreed to prohibit the importation of opium by Chinese subjects.

On the 6th of May, 1882, the president approved an act of congress suspending Chinese immigration for ten years but not interfering with the Chinese already in the country; and as a result of this act the Chinese already in California raised the price of domestic service immediately thereafter. In 1902 the provisions of law suspending the immigration of Chinese was extended for ten years more, and in 1912 the act was extended without limitation.

In 1876 the books of the six Chinese companies showed a total of 151,300 coolies belonging to them, but it is probable that a number of these had returned, as the statisticians placed the number of Chinese in California at that time at 116,000.

The year 1877 opened with a promise of hard times. Little rain fell during the winter of 1876-7, and the damage to the grain crop and the loss of cattle on the stock ranges amounted to millions of dollars. In addition there was a great falling off in the gold production, while in the stock market the decline in values was very great. Following the wild gambling operations in mining shares of 1875-6 came a great slump; thousands of families were impoverished and saw the savings of a life time covered into the coffers of men already rich; and they had the further satisfaction of seeing the greater part of the money they had lost carried out of the state. So universal had been the

stock gambling craze that many enterprises were obliged to close for want of funds, throwing people out of employment and increasing the general distress.

Another grievance of the working man was that the enormous monopoly of land by a few men, who refused to sell at a fair value, hindered the settlement of the country, thereby inflicting the double injury of preventing the poor from acquiring cheap homes and checking the employment of farm and other laborers.

Labor unions began to be formed in 1867 and in 1868 the legislature passed an act making eight hours a legal day's work. This was not only for the purpose of securing more leisure for improvement, physical and mental, of the working men, but in order to give employment to a greater number.

By 1877 the situation in regard to laboring men had become acute. In San Francisco thousands were out of employment and had to be assisted by the benevolent associations, and the majority of them attributed their distress to the cheap Chinese labor employed in the manufactories. They had endeavored to better their condition by holding meetings and petitioning the legislature and congress for relief from the blight of Chinese competition. They had failed, and in addition, they were told by their friends and leaders that the men to whom they had left the business of politics and government were corrupt; that they used their influence to lobby bills through the legislature granting privileges to corporations, while heavy taxes were laid upon the public to be wasted by a reckless and extravagant administration.

On the 23d of July a mass meeting of working men was held in San Francisco on a vacant lot on the Market street side of the new city hall, then under construction. At this meeting resolutions were adopted denouncing the grasping policy of the moneyed and governing classes; declaring against subsidies to railroad and steamship lines; against the use of military force against strikers; asserting that the reduction of wages was a part of the conspiracy for the destruction of the republic; that the non-enforcement of the eight-hour law had over-crowded the labor market; demanding that the government enforce the law, and that all railroad property in disaffected districts should be condemned to public use, allowing the owners a just compensation therefor.* While the meeting was in progress an anti-coolie club was formed on the outskirts thereof which proceeded to wreck a number of Chinese laundries. In anticipation of an outbreak and in consequence of threats made by the rioters to burn the Chinese laundries and drive out the Asiatics, the citizens had formed a committee of safety which, led by William T. Coleman, came to the aid of the police and in the struggle several persons were killed. Coleman, a prominent merchant of San Francisco who had been president of the vigilance committee of 1856, acted with great promptness and organized a force of about fifteen hundred men and applied to the war department for arms which were furnished, but later he armed his force with hickory pick handles—his object being not to kill or maim, but to disperse the rioters and drive them off—and he returned the arms

*Bancroft, *History of California, Vol. VII, p. 353.*



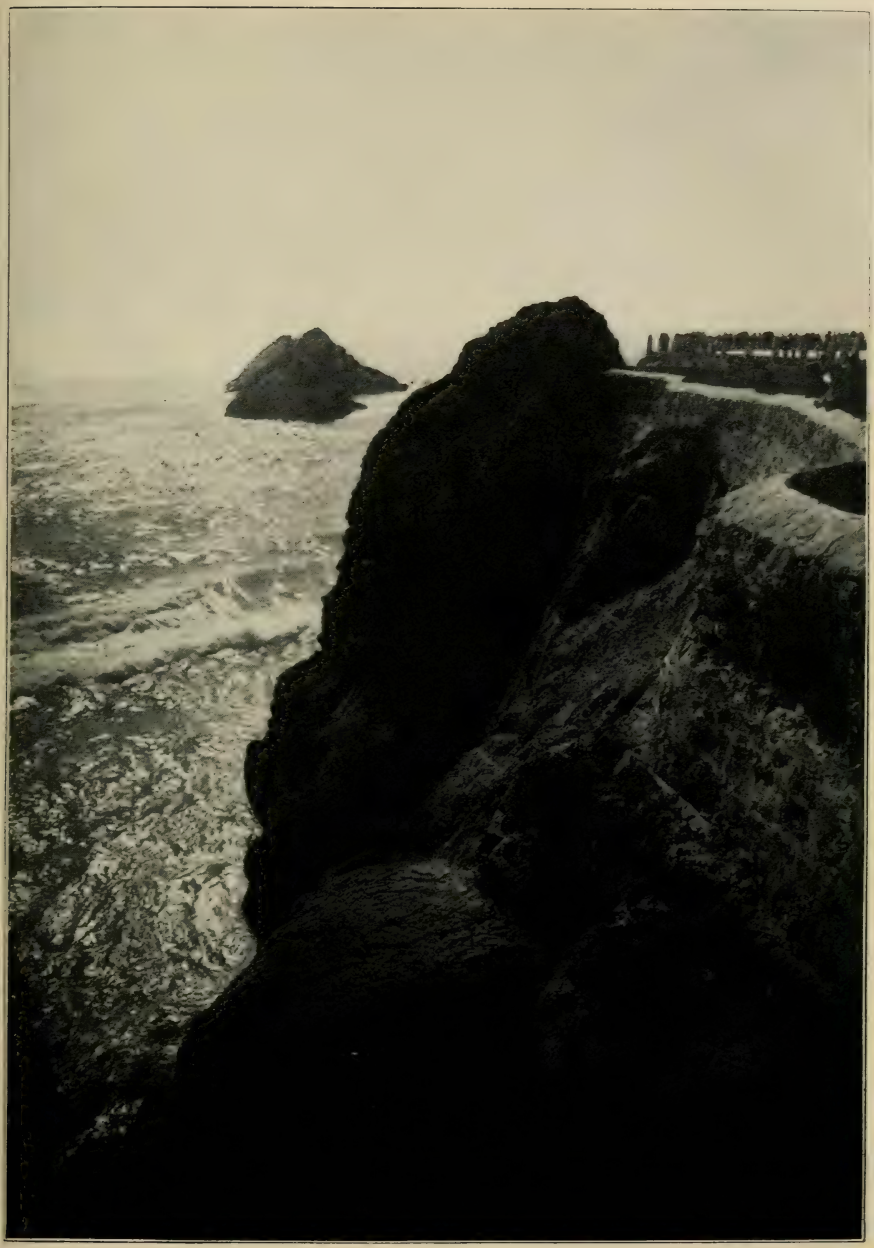
SAN FRANCISCO

The Cliffs

This rugged outlook upon the Pacific Ocean is 31 minutes by street car from Kearny street.

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*Bancroft, History of California, Vol. VII, p. 251.





and ammunition to the military authorities. He formed his men into companies of one hundred, under officers of their own choosing, and drilled them in the use of their weapons and sent them out in detachments for active service as assistants to the police and under the direct orders of the chief. This was known as the pick-handle brigade and between five and six thousand citizens were enrolled for service. At the request of Governor Irwin the secretary of the navy ordered the United States vessels *Pensacola* and *Lackawanna*, and tug *Monterey* down from Mare Island and they were anchored off the city wharves. Alarm was also felt in Oakland in consequence of a meeting of 12,000 working men who indulged in threats against the property of the railroad company in that city, unless the Chinese in their employ should be discharged.

On the night of July 25th a demonstration was made against the docks and steamers of the Pacific Mail company at the foot of Brannan street where the Chinese immigrants were landed and which were therefore regarded as proper subjects of spoil. A great crowd congregated in the neighborhood and several lumber yards in the vicinity were set on fire. The disorderly element was out in large force, as is usual on such occasions, and attempted to interfere with the firemen who were early on the ground with their engines. The police assisted by the pick-handle brigade charged the rioters and in the general melée a number of shots were fired and many stones thrown. A few men were killed and several wounded but the rioters were finally dispersed. This ended the riotous agitation and a few days later the committee of safety

disappeared from public view, the war ships were returned to Mare Island, and the secretary of the navy and the secretary of war received the thanks of Governor Irwin for their assistance in restoring order.

The communistic element of the working men's association was repudiated by the more intelligent and conservative of the laborers, many of whom joined the committee. The riotous movement failed for lack of a leader and a definite purpose. Such a leader now appeared who seemed to have both capacity for leadership, a definite purpose and, for a time, wonderful success in swaying the multitude. Denis Kearney was an Irish drayman, born in County Cork, in 1847. At the age of eleven he went to sea as a cabin boy, sailing principally under the American flag and gaining rapid promotion, so that when he arrived at San Francisco in 1868, he was first officer of the clipper ship *Shooting Star;* a position he continued to occupy on coasting steamers for four years. It was here he acquired the air of dominating command which was to stand him in good stead in later years. He was temperate and industrious, saving enough to purchase a draying business in 1872 which prospered until 1877, when the merchants withdrew their patronage in consequence of his incendiary speeches. He was not devoid of means, while drawing support from his followers in collections taken up at the Sunday meetings on the sand-lot. He was not naturalized until 1876. He had little education but had picked up considerable information from newspapers and political pamphlets. His voice was loud and penetrating and his harangues were violent, denunciatory, and abounded in abusive

epithets, some of which were picturesque, if not elegant, and caught the popular fancy: as when he spoke of the members of the legislature as the "Honorable Bilks," the term was at once adopted by his followers. His slogan was "The Chinese must go." He spoke with a pronounced brogue and with shallowness of argument. His ideas of political economy were crude and illogical and his conceit was as great as his ambition. By his admirers he was compared to the first Napoleon, and to Caesar. In personal appearanace he was below medium height, compactly built, with a broad head, slight mustache, restless blue eyes, and nervous temperament.

On the 18th of August, at a meeting of working men, Kearney took preliminary steps to organize a party, which, four days later was formed under the name of the Workingmen's Trade and Labor union. J. G. Day was chosen president and Kearney secretary. In the meantime other trades unions in different parts of the state were acting in sympathy with those of San Francisco, and at Sacramento they advocated the abolishment of all national banks and the withdrawal of the present bank currency in favor of full legal tenders issued only by the United States; the unconditional abrogation of the Burlingame treaty; and the fees of office-holders to be reduced to the prices paid for skilled labor.

On the 12th of September at a meeting of the Workingmen's Trade and Labor union it was resolved to sever all connection with existing political parties, and organize under the name of the Workingmen's party of California with the following objects: The abolition

of assessments on candidates for office; holding state and municipal officers to strict accountability for their official acts; the establishment of a bureau of labor and statistics; reduction and regulation of hours of labor; and the creation by the legislature of a convention of labor, with headquarters in San Francisco.

On September 21st a public meeting was held at Union hall on Howard street, San Francisco, for the purpose of considering the condition of the unemployed and providing means for their relief. State senator Philip A. Roach addressed the meeting upon the Chinese trouble and political corruption and called for united action to obtain legislation for the poor. Kearney also spoke and said he wanted to see a musket in the hands of every working man and predicted that within a year there would be twenty thousand laborers in San Francisco well armed, well organized, and well able to demand and take what they wished, despite the police, the military, and the "hoodlum committee of safety." He threatened the Chinese with summary treatment; inveighed against the capitalists of the state—giving the names of many—and intimated that a little judicious hanging would be salutary and that a few fires would clear the atmosphere. He said he knew his speech was incendiary and it was intended to be so. This kind of talk suited the riotous and anarchistic elements and Kearney rose high in their favor.

The San Francisco branch of the Workingmen's party met every Sunday afternoon on the vacant lot on Market street in front of the new city hall, where the initial meeting of July 23d was held, and from this

THE GOLDEN GATE

"San Francisco

Serene, indifferent of fate,
Thou sittest by the Western Gate;

Upon thy heights so lately won,
Still slant the banners of the sun;

Thou seest the white seas strike their tents,
O warder of two continents,

And scornful of the peace that flies,
Thy angry winds and sullen skies,

Thou drawest all things, small or great,
To thee beside the Western Gate."

of requirements on candidates for office; holding state and municipal officers to strict accountability for their official acts; the establishment of a bureau of labor and statistics; reduction and regulation of hours of labor; and the creation by the legislature of a convention of labor, with headquarters in San Francisco.

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came the name by which it was known: the "Sand-lot party." The meetings were largely attended and the speakers were enthusiastically applauded.

A few days after the Union hall meeting, Kearney addressed a meeting on the sand-lot. He declared that San Francisco would meet the fate of Moscow if the condition of the laboring classes was not soon improved, and that bullets were not wanting to enforce their demands. At this intemperate language he was called to order by Day, the president, but the crowd applauded Kearney and urged him on. On the 5th of October, 1877, a permanent organization of the Workingmen's party was effected with Denis Kearney as president, John G. Day vice-president, and H. L. Knight secretary. The principles of the association were declared to be: "To unite all poor and working men and their friends into one political party for the purpose of defending themselves against the dangerous encroachments of capital on the happiness of our people and the liberties of our country; to wrest the government from the hands of the rich and place it in the hands of the people where it properly belongs; to rid the country of cheap Chinese labor as soon as possible by all means in our power, because it tends still more to degrade labor and aggrandize capital; to destroy land monopoly in our state by such laws as will make it impossible; to destroy the great money power of the rich by a system of taxation that will make great wealth impossible in the future; to provide decently for the poor and unfortunate, the weak, the helpless, and especially the young, because the country is rich enough to do so, and religion, humanity, and patriotism

demand that we should do so; to elect none but competent working men and their friends to any office whatever. The rich have ruled us until they have ruined us. We will now take our own affairs into our own hands. The republic must and shall be preserved, and only working men will do it. Our shoddy aristocrats want an emperor and a standing army to shoot down the people." The party proposed, as soon as it got strong enough, to wait upon all who employed Chinese, ask for their discharge, and mark as public enemies those who refused to comply with their request. It further declared that it would exhaust all peaceable means of attaining its ends but it would not be denied justice while it had the power to enforce its demands. It would encourage no riot or outrage, but it would not volunteer to repress, put down, arrest or prosecute the hungry and impatient who manifest their hatred of the Chinaman by a crusade against "John" or those who employ him. "Let those who raise the storm by their selfishness suppress it themselves. If they dare raise the devil, let them meet him face to face. We will not help them."

This platform found ready acceptance from those who envied the wealthy class; who hated the Chinaman, who longed for the place and the perquisites of the politician and thought they saw herein means of coming to such a consummation of their desires. Clubs were formed in every ward and Kearney spoke every night at one or more of them. He became more and more violent in his denunciation and vituperation. He brooked no opposition and when at one time a rival meeting was attempted on the same sand-lot, he paused

in his harangue against the Chinese and pointing to the mutineers, said: "You will have to mob those white Sioux and white pigtail-men first. You will have to shoot them down on the streets before you begin on the Chinese."* He inveighed against congress and the legislature; they were, he said, manipulated by thieves, peculators, land-grabbers, bloated bond-holders, railroad magnates, and shoddy aristocrats. He said that when the working men decided that the Chinese must go, and when their will was thwarted by bribery, corruption, and fraud, it was time for them to meet bribery, corruption, and fraud with force. "The reign of bloated knaves is over," he said on another occasion, "the people are about to take their own affairs into their own hands; and they will not be stopped either by vigilantes, state militia, or United States troops." On October 29th a tumultous body of about three thousand proceeded to the summit of the hill at California and Mason streets where the railroad magnates, Stanford, Hopkins, and Crocker had erected costly residences, and where Kearney harangued them denouncing the railroad men, calling them thieves, and said that when he had thoroughly organized his party they would march through the city and compel the thieves to give up their plunder; that he would lead them to the city hall, clear out the police force, hang the prosecuting attorney, burn every book, and then enact new laws for the working men; that he would give the Central Pacific just three months to discharge their Chinamen, and if it were not done, Stanford and his crowd would have to take the consequences. At a

*Hittell, *History of California, Vol. IV, p. 602.*

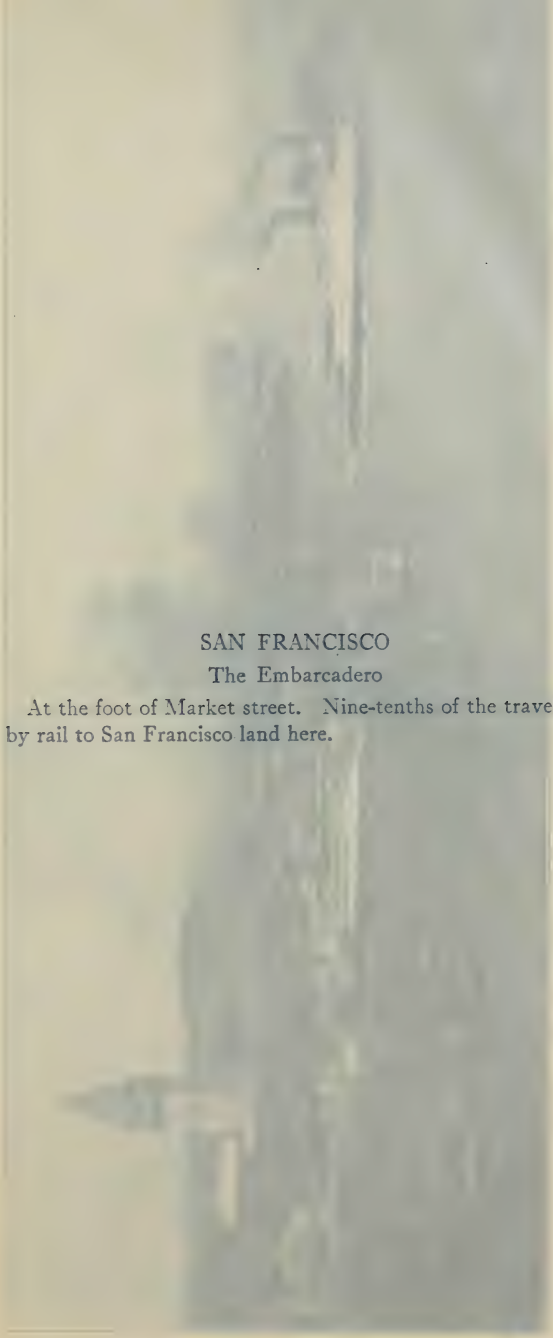
meeting at Irish-American hall he said he wanted to make a motion that men who claimed to be leaders in the working men's movement and flagged in their interest, should be hung up to a lamp post. "We will take them by the throat," he said, "and choke them until their life's blood ceases to beat and run them into the sea. A fine young man asked me, 'What position are you going to give me?' His name is Lynch. I said, 'I will make you chief judge.' His name is Lynch, recollect—Judge Lynch; and that is the judge the working men will want in California, if the condition of things is not ameliorated. I advise every one within the sound of my voice, if he is able, to own a musket and a hundred rounds of ammunition."* The Chinese residents became fearful of violence and the six companies sent a petition to the mayor appealing for protection, and such was the alarm among all classes of citizens caused by these incendiary speeches and threats that in November, 1877, Kearney was arrested and confined in jail, a martyrdom which he thought would make him famous. Some of his lieutenants were also arrested and all were charged with inciting riot. A defect in the law, however, caused them to be discharged, but they were immediately arrested and charged with riot under the penal code; but the court before whom they were brought decided that their conduct did not constitute a technical riot and they were again discharged. They were received by their followers with enthusiasm and hailed as heroes. A great demonstration was planned in Kearney's honor and on Thanksgiving day, November 29, 1877, seven thousand men marched in

*Hittell, *History of California, Vol. IV, p. 603-604.*

procession through the city with banners flying and sand-lot mottoes displayed. It ended at the sand-lot where after some speeches and the adoption of a resolution to wind up the national banks the assembly dispersed. While in jail the agitators had sent a communication to the mayor saying that they had been misrepresented by the press; that they had no design against the peace of the city, and were willing to submit to any wise measure to allay existing excitement. They said they did not propose to hold any more out-door meetings or to tolerate any further use of incendiary language. This letter was signed by Kearney and others and the mayor was authorized to make such use of it as he might deem conducive to public safety. No sooner were they at liberty, however, than Kearney recommenced his outrageous attacks upon the police, the judges and the supervisors. Kearney's success caused him to feel that he could do anything with his followers. At a meeting in December, 1877, he promised: "If I don't get killed, I will do more than any reformer in the history of the world. I hope I will be assassinated, for the success of the movement depends on that"; and he launched forth against the "thieving millionaires and scoundrelly officials"; talked of lynching the railroad magnates and destroying their property; blowing up and burning the Pacific Mail docks and steamers; of dropping dynamite bombs from balloons into Chinatown and of using infernal machines to clean out the "bloated bond-holders." He predicted a glorious future for their movement, and he hoped that a later generation might find a slab with

the inscription: "Here lies Kearney the Drayman who led the victorious charge against the hordes of tyranny and died for liberty and the rights of men."

In company with the secretary of the Workingmen's party Kearney now set out to form clubs throughout the state and addressed audiences in many places. Among the farming class he had little success but in the large towns he was eagerly listened to and his talk throughout was the usual one of denunciation, abuse of the wealthy classes, of the administration of the government, and boasts of what he, as dictator, proposed to do. On January 3, 1878, Kearney headed a procession in San Francisco and marched to the city hall to demand of the mayor "work, bread, or a place in the county jail." By the time they reached the city hall the procession numbered fifteen hundred and caused no little alarm among the officials. Kearney told the mayor that he could not keep his followers in check any longer and would not be responsible for what might happen if they were not provided for. He demanded that the capitalists of the city should establish an industrial colony or take other means for relief. This was, of course, out of the mayor's power to do. They then crossed over to the sand-lot where the usual speeches were indulged in and the working men were advised to bring guns and bludgeons to the sand-lot. Military companies were formed among them but only those of the tenth and eleventh wards were able to procure arms. The authorities again arrested the incendiaries; the national guard was called out and a man-of-war sent to protect the mail docks. A committee was appointed to lay before the legislature the condition of



SAN FRANCISCO

The Embarcadero

At the foot of Market street. Nine-tenths of the travelers by rail to San Francisco land here.

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affairs, and an act was passed authorizing the arrest of incendiary speakers and the dispersing of doubtful assemblages. Released on bail, Kearney denounced the action of the legislature and said: "If the members of the legislature overstep the limits of decency, then I say, hemp! hemp! hemp! That is the battle cry of freedom." He also defied the grand jury and said that if imprisoned again he would work out of jail and "annihilate every one of these hell-hounds in the state of California." William Wellock, an Englishman, shoemaker by trade, was an evangelist and Bible expounder, and owing to his ready talk and violent denunciatory speeches had been made vice-president of the party. He was fond of discoursing upon Bible texts at the sand-lot and was, in consequence, known by the name of Parson Wellock. The wickedness of the monopolists was a favorite theme with him. They were, he declared, perverters of the truth and must be destroyed. In the Bible the Lord was said to be a consuming fire. "When he commands, we must obey. What are we to do with these people that are starving our poor and degrading our wives, daughters, and sisters? And the Lord said unto Moses, 'Take all the heads off the people and hang them before the Lord.' This is what we are commanded by a supreme being to do with all that dare to tread down honesty, virtue, and truth."

On January 22, 1878, one of the indictments against Kearney and Wellock was tried before a jury in the city criminal court, but under the rulings of the judge on the subject of riot, they were acquitted, and at once resumed their campaign of abuse and denunciation with an arrogance unsurpassed, filling the peaceful

citizens with terror. The military companies formed by Kearney assembled for drill on the sand-lot, and Kearney was elected lieutenant-general, with Knight as adjutant, and three staff officers; a uniform was adopted consisting of blue shirt, black trousers, and fatigue cap. One speaker suggested that were a few guns turned on the city millions might be extorted wherewith to form a fund for the common benefit. It is not surprising that the people were greatly alarmed at these demonstrations against established order and property rights. In a city composed largely of wooden buildings, as San Francisco then was, a number of fires started on a windy afternoon would prove a serious matter; yet the danger was more apparent than real and while the talk was threatening, the agitators usually refrained from actual violence. The police were vigilant and active and we do not doubt that with the assistance of Coleman's pick-handle brigade they would have been equal to the defeat of any riotous attempt at mischief. The sensational press, too, had its influence and reported Kearney's speeches and sometimes contrived to make his harangues even more violent than they were. In a letter to James Bryce, Kearney accused the newspapers of misrepresenting him.*

A convention of the Workingmen's party was held on January 22d and on the same day came news of the triumph of the Workingmen at an election to fill a vacancy in Alameda county, where they secured a senator—an election at which the Workingmen had 2,730 out of 4,340 votes cast. John W. Bones, the first fruit of the new party, had neither education, expe-

*Bryce, *The American Commonwealth*. Second Edition. 1891.

rience, nor training to fit him for the position, but was eccentric and so very tall and lean that he was sometimes called "Praise-God Barebones." Kearney proceeded to Alameda and brought the senator to San Francisco to exhibit him at the convention.

The convention provided a state central committee with members from each senatorial district and one representative from each trade union. The usual provisions for abolishing Chinese cheap labor were adopted; no one was to be permitted to hold more than one square mile of land; land to be subject to taxation in accordance with its value and productive nature; import duties on raw materials not produced in the United States to be abolished; a system of finance uncontrolled by rings, brokers, and bankers to be adopted; malfeasance in office to be punished by imprisonment for life and not to be pardoned, while the pardoning power of the president and governors of states was to be taken from them and vested in commissions. Many other provisions—most of which we could all subscribe to—were adopted; the Workingmen's party was ready to become a factor in the politics of the state, and the people began to wake up to a realizing sense of the fact that a new element had entered the arena and was to be reckoned with.

Much impressed by the belief in his own power Kearney became arrogant and aggressive. An attempt by the legislature to pass a bill authorizing the city of San Francisco to purchase, for $15,000,000, the Spring Valley water-works, created a great outcry in the city and a meeting of property-owners was called for March 16, 1878, to protest against it. At this meeting

Kearney appeared with a large following and proceeded to take a place on the platform. When reminded that he had not been invited he insisted on his right, as a representative of the working men, to share in its deliberations, and calling on his adherents for a show of hands, he declared himself elected chairman, and carried matters with a high hand, entirely routing the property-owners. A set of resolutions was then passed, instructing the city representatives in the legislature to vote against the bill, a deputation being dispatched to Sacramento to present them to the governor and legislature.*

But in the midst of his progress Denis Kearney fell and the place that had known him knew him no more. Whether the peril that lurks in the path of the political reformer met him and he went down before it, or whether he was deposed by his riotous followers, we cannot say. It was reported at the time and pretty generally believed that he had been bought off by the railroad people and the amount of his purchase variously stated from a new dray and team to a large sum of money. "We had to have him," said one supposed to be in the councils of the railroad, "He was too strong and too dangerous a man for us to permit him to go on." How much it cost to "get" Denis Kearney, if indeed he was "got," is not in evidence. We are inclined to believe from all we can learn in an investigation thirty-four years later, that his followers simply became tired of him and threw him out; his harangues no longer entertained them and his agitation failed to produce adequate results; and when he was accused of using his position

*Bancroft, *History of California, Vol. VII, p. 362.*



SAN FRANCISCO
Market Street
Looking east from Powell street

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* Bancroft, History of California, Vol. VII, p. 566.


1915



to promote selfish ends they removed him from it. He says himself, in a letter to James Bryce, written in 1890. "I was poor, with a helpless family, and I went to work to provide for their comfort."* There is nothing in his appearance or manner of life thereafter that would discredit this statement.

The sand-lot movement rose with surprising swiftness, due to the peculiar conditions existing in California, two features of which were the tremendous influx of Chinese and the arrogant attitude of the newly made railroad millionaires. It fell as quickly as it rose and when it was over and the people realized how poor a thing their bogy was they were a little ashamed of their fright and began to make light of it. "Who's afraid?" said they. "We knew there was nothing to him and we let him talk himself out."† But the peril was a real one and the fright genuine. Many a timid householder went to bed at night fearing that his city would be in flames before morning. To be sure there were the police, and the militia, and the pick-handle brigade, whose leader was a man of courage and determination; but if trouble came there would be some strenuous work before order could be restored. Had Kearney been competent to plan a policy, and had he the physical courage to use the force that came to his hands, the story might have been different. But he had neither; he spent himself in denunciation and vituperation and he went down

> "To the vile dust from whence he sprung,
> Unwept, unhonored, and unsung."

*Bryce, *The American Commonwealth*. Second Edition. *Vol. II, p. 7 and 9.*
†Bryce, *The American Commonwealth, Vol. II, p. 402.*

With the disappearance of Denis Kearney the violent hostility to the Chinese subsided and with the modification of the Burlingame treaty by Angel, Swift, and Trescott in 1881, it may fairly be said to have ceased. The influence of the sand-lot movement was, however, far reaching. It was largely instrumental in the modification of the treaty and the acts of congress thereunder. It caused the calling of a constitutional convention and in the articles of the instrument that convention framed, its influence may be plainly seen. The Workingmen's party organized and nourished by Kearney did not impress itself on the political entity of the state for a great while. It figured in the legislature, in the composition of the courts, and it gave a mayor to San Francisco; but it soon ceased to be a political factor and its members returned to their former affiliations.

CHAPTER VIII.

THE NEW CONSTITUTION

1878–1879

THE feeling of unrest and dissatisfaction with existing conditions found expression in 1877-8 in a demand for a new constitution. It was claimed that under the constitution formed in 1849, a very good constitution for its time, too much had been left to the wisdom of the legislature—particularly in regard to taxes and finance; that the legislature could borrow from one fund to squander upon another, and heedless of the burden upon the people it could impose any tax it might see fit to waste in large salaries and extravagant expenditures; it could and did dispose of the public domain without obtaining the consent of the people, and in these and in many other particulars the constitution was unsuited to the requirements of the state and the character of its population. The reaction from the flush times of the gold placers, the collapse of mining exchange speculations, the large amount of unemployed men, the oppressive exactions of the railroad, with the greatly increasing Chinese immigration, gave the working men the argument for a change in the organic law and in this demand they were joined by the agricultural class who sought to be relieved from burdensome taxation. The value of mining stocks which in 1875 had aggregated $300,000,000, had in 1877 fallen to less than $150,000,000, reducing to poverty and want thousands of working men; the mines and farms of the state had yielded in five years past $750,000,000, but the great bulk of it had gone to enrich less than twenty per cent of the population, a few of whom had amassed colossal fortunes while the great mass of the people were left to struggle for existence as best they might. The discontent of the farmers

was hardly less than that of the city laborers. They, too, had lost heavily in mining stocks, their farms were mortgaged and many of them were bankrupt. The Granger movement, a revolt against the exactions of railroads in matters of freight charges, had spread from the upper Mississippi states into California and the farmers, under their associations called "Patrons of Husbandry," or popularly, "Granges," had already in 1872 and 1873 begun to make themselves felt in politics. In all parts of the union the railroads held full sway and ruled their subjects with a rod of iron. While their control was perhaps more absolute in the west than it was in the eastern states, still the rule of the New York Central railroad was recognized in New York, the Pennsylvania Railroad was king in Pennsylvania, and the state of New Jersey was known as the "State of Camden and Amboy."

The Granger party in California saw their opportunity in the movement for a new constitution and cast their votes with the working men for a convention. In fear of a socialistic revolution of the state government the best elements of the Republican and Democratic parties united to nominate a non-partisan ticket. The election for delegates was held June 19, 1878, and resulted in the election of:

78 Non-partisan
51 Working men
11 Republican
10 Democratic
2 Independent

Total 152 Delegates.

The Granger, or farmer delegates were elected under their party affiliations, or as non-partisans, but they voted, in many instances, with the working men.

The instrument formed by this convention has been spoken of as the "Sand-lot Constitution." It is not a product of the sand-lot, although some of its provisions reflect the principles of the Workingmen's party, notably in the article on taxation and that on Chinese immigration. A study of the personnel of the convention, which included some of the strongest and best known men in California, would convince any unprejudiced observer that the influence of the able and conservative element would go far towards preventing a too radical change of government. In the matter of taxation there was undoubtedly an effort made to shift the burden from the shoulders of the poor to those of the rich. Experience has shown the futility of such efforts. Capital cannot be made by legislation to pay more than its just proportion of revenue. The burden merely sifts through and descends until it reaches the bowed back of labor, whose later condition is worse than its previous one, and the attempt to force the lender to pay a tax on a loan secured by mortgage simply insures the borrower paying a higher rate of interest to cover the mortgage tax, and usually about twenty-five per cent in addition.

While the convention had some very ignorant members the average was fairly good and the better class included such able men as Joseph P. Hoge, a leader of the San Francisco bar who had served three terms in congress before coming to California; Doctor A. B. Shurtleff, a graduate of Harvard and a practicing

physician of Napa; T. B. McFarland, later justice of the supreme court; S. G. Hillburn, graduate of Tuft's college, member of congress; A. C. Freeman, code commissioner; Marion Biggs, president of State Agricultural Society; Clitus Barbour, graduate of Knox college, lawyer and editor; G. A. Johnson, graduate of Yale, mayor of Santa Rosa; C. W. Cross of Nevada City, graduate of Northwestern university, lawyer; A. P. Overton of Santa Rosa, lawyer, judge, and banker; M. M. Estee, lawyer of San Francisco; Isaac S. Belcher, judge; W. H. L. Barnes, lawyer, San Francisco; Patrick Reddy, lawyer, San Francisco; J. E. Hale of Auburn, lawyer, county judge; Byron Waters, lawyer, San Bernardino; Alexander Campbell of Oakland, leading lawyer of the San Francisco bar; William Van Voorhies, graduate of Jackson college, first secretary of state, law partner of Edmund Randolph; Joseph W. Winans,* lawyer, regent of the University, litterateur; C. G. Finney of San Buenaventura, graduate of Oberlin college, lawyer, editor, and horticulturist; Dr. Lucius De Witt Morse, graduate of New York university; Eugene Casserly, lawyer, United States senator; David S. Terry, chief justice of California; Henry Edgerton of Sacramento, lawyer and orator; John E. Miller, collector of the port of San Francisco, United States senator; Hiram Mills, graduate of Alleghany college; Walter Van Dyke, judge; John S. Hager, graduate of Princeton college, lawyer, United States senator; Samuel M. Wilson, a leader of the San Francisco bar; J. M. Rhodes, banker, farmer, owner of Capay rancho; J. West Martin, agriculturist, stock

*Biography of Winans, Vol. V, p. 431-432.

raiser, banker, and many other prominent men. These were strong men and not the ones to put their names to a "Sand-lot Constitution."

The convention met September 28, 1878, and sat one hundred and fifty-six working days. Joseph P. Hoge was elected president and the secretary was Joseph Asbury Johnson, graduate of Beloit college, newspaper editor and owner. That there was a disposition to "cinch" capital, to restrict unjust discriminations on the part of railroads, and extortionate rates on the part of water and gas companies, break up vicious practices indulged in by mining companies, may be admitted, but while among the lawyers, who secured a large representation, there were some so closely bound by business ties to the great corporations as to be disposed to protect their interests in justice to many of them it must be said that their respect for the principles of the common law and for sound constitutional doctrine led them to do their best to restrain the wild ideas of some of their colleagues. Of the members fifty-eight were lawyers, thirty-nine farmers, seventeen mechanics, nine merchants, five physicians, five miners, three journalists, and sixteen of various occupations. Two had died since the election and one had resigned.

There were thirty-five foreign-born delegates sitting in the convention to make a constitution for an American state though all but three had been in California for more than ten years. The Workingmen's party had with the Granger vote a slight majority in the convention and these elements had, for the first time, the opportunity for direct legislation, and they proposed

to deprive the legislature of as many rights and privileges as possible. While the Sand-lot party was undoubtedly ready for radical changes they were held in check by the farmers who, owning their lands, were opposed to anything approaching socialism; and they formed a code which was intended to secure labor against the tyranny of capital, which could not be altered at every session of the legislature, and they declared in their bill of rights that "no property qualification shall ever be required for any person to vote or hold office."

The legislative department of the government was subjected to many restrictions. Sessions were to begin on the first Monday after the first day of January next succeeding the election of its members and after the election held in the year 1880 were to be biennial, and no pay was to be allowed to members for a longer time than sixty days. The governor and all state officers, with the justices of the supreme court and the judges of the superior courts were liable to impeachment, but judgment in such cases was extended only to removal from and subsequent disqualification for office, and the person so tried and punished was liable to the ordinary process of law. Embezzlement of the public funds of the United States, or of any state, or of any county or municipality therein, should render the guilty person ineligible to any office in the state and the legislature must pass laws for the punishment of this crime as a felony. Appropriations of money from the state treasury or grants of property for the use of corporations or institutions not under the exclusive control of the state, were forbidden; except

that aid might be granted to orphanages, or homes for the indigent, by a uniform rule proportioned to the number of inmates. Under the first constitution the people had suffered from special legislation and a cure was now to be affected to some extent by an extraordinary number of restrictions imposed. That these restrictions were wholesome is proved by the fact that all of them have been adopted by other states. California legislatures have made many attempts to break the bounds of their power in this particular and have passed many laws which the courts have been compelled to declare unconstitutional. After twenty-nine years' experience under this constitution seventy-six different statutes had been called in question by one or more sub-divisions of this section and in thirty-one cases they were set aside as local or special.* The legislature should enact laws limiting the charges of telegraph and gas companies, and the charges for storage and wharfage. Lobbying or attempting to influence legislation by bribery, intimidation, or other dishonorable means was declared to be a felony and the legislature must provide a punishment therefor, and any member accepting a bribe should be guilty of a felony and punished accordingly.

In the executive department the governor could convene the legislature in extraordinary session; but it could legislate only on subjects specified in the proclamation of the executive. Pardons, reprieves, and commutations of sentences could be granted by the governor; but a person twice convicted of a felony could only be pardoned upon a written recommendation

*Justice Shaw before Commonwealth Club, March 24, 1909.

of a majority of the judges of the supreme court. The governor should not, during his incumbency, be elected a senator of the United States. In civil actions three-fourths of a jury might render a verdict, and no judge of the supreme or superior court should be allowed to draw his pay until he had made an affidavit that no cause in his court remained undecided that had been submitted for decision for a period of ninety days. All contracts for the sale of shares of corporation stocks on margins or for future delivery were declared void and money paid on such contracts might be recovered.

The subject of taxation received much attention. It was one of the main issues with the farmers and the working men. The claim was made that the railroad and other large owners of uncultivated land held for speculation, did not pay their just proportion of taxes. Of the $162,000,000 assessed on lands outside of the towns, it was stated that the small farmers paid on an assessed valuation of $125,000,000 leaving but $37,000,000 assessment on the large owners. An attempt made to tax mortgages, deeds of trust, etc., in addition to the tax on the full value of the land failed, but provision was made for taxing the land for its full value less the amount of the mortgage thereon which was assessed to the owner of the security, and any contract by which the debtor obligated himself to pay the assessment on any mortgage, deed of trust, or other lien was void. Thus was the attempt made to shift the burden from the shoulders of the poor man only to increase its weight; for the advanced rate of interest



SAN DIEGO
The Panama-California Exposition
Laguna de las Flores

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he had to pay was calculated to cover not only the tax but something additional to meet all possible contingencies.

Each stockholder of a corporation was made liable for such proportion of its liabilities, incurred during the time he was a stockholder, as the amount of shares held by him bore to the whole of the subscribed shares of the corporation; and the trustees of corporations were made jointly and severally liable to the creditors and stockholders of such corporations for all moneys embezzled or misappropriated by the officers during the term of such trustees. No corporation could issue stock or bonds except for money paid, labor done, or property received. In the election of directors cumulative voting was permitted. Railroads and other transportation companies were declared to be common carriers; no officer, director, or employe of such corporation should be interested in furnishing material or supplies to the company, nor in the business of transportation over the works owned or controlled by such company, except such interest as lawfully flows from the ownership of stock therein; nor could any railroad or other transportation company grant free passes or tickets at a discount to any person holding office of honor, trust, or profit in the state, other than railroad commissioner.

Railroad companies were forbidden to combine with navigation companies or with any common carrier by which the earnings of the one doing the carrying were to be shared with the other not doing it; and whenever a railroad corporation should, for the purpose of competing with any other common carrier, lower its

rates for the transportation of passengers or freight from one point to another, such reduced rates should not be again increased without the consent of the authority in which the government vested the power to regulate fares and freights; and no discrimination should be made in charges or facilities for transportation of passengers or freight within the state, or coming from or going to any other state; but persons and property should be delivered at any station, landing, or port, at charges not exceeding the rates to any more distant station.

A railroad commission was created, to consist of three members each to be elected in a specified district to serve four years. This commission was to regulate the freights and fares of railroad and transportation companies; prescribe a uniform system of accounts to be kept by them, and have a general supervision over their business; and any transportation company which should fail or refuse to conform to the rates established by the commission, or charge rates in excess thereof, or fail to keep their accounts in accordance with the system prescribed by the commission, should be fined not exceeding $20,000 for each offence, and every officer, agent, or employe of such corporation who should demand rates in excess of those prescribed should pay a fine of not more than $5,000 or be imprisoned in the county jail not more than one year. In any action to recover damages against a railroad company on account of excessive rates, the plaintiff might, in addition to actual damage, recover, in the discretion of the judge or jury, exemplary damages. In addition to the penalties already named, the legislature might enforce

this article of the constitution by forfeiture of charter or otherwise, and might confer further power on the commissioners if necessary to the performance of their duties.

Through their agents and attorneys in the convention and in the press the Central Pacific railroad company fought this article bitterly and were assisted by the mining and banking corporations. For four weeks it was debated in the committee of the whole and on final vote it was adopted with eighty-three affirmative against thirty-three negative votes. The fight for the article was led by Morris M. Estee and ably seconded by Judge Hager and by Judge Hale of Auburn.

City and county governments might be consolidated into one municipal government and any city with a population of more than one hundred thousand inhabitants might frame a charter for its own government by choosing fifteen free holders at any general election to prepare a charter which, after approval by the qualified electors of such city, should be submitted to the legislature for its approval or rejection as a whole, and if confirmed by the legislature it should become the charter of such city, and could be amended at intervals of not less than two years, the proposed amendments taking the same course as the original charter.

In any city not owning its gas and water supply works a free right to lay pipes in its streets was granted to any one who might desire to use such pipes for the transmission of water or gas. The constitutional debates show that the purpose of this section was to encourage competition and prevent monopolies in the matter of supplying gas and water for public use. It

did not produce the expected result. The suggestion of a member of the convention, made in the debate, that the provision would encourage blackmailers to start new gas and water companies for the purpose of compelling the existing companies to buy them out, well describes its practical effect.* No city, county, town, township, or school district should incur any liability exceeding the income provided for each year, without the consent of two-thirds of the qualified electors voting at a special election, or without providing for the interest and sinking fund to extinguish the same within a limited time.†

As was to be expected the violent agitation against Chinese immigration that had been the principal feature of the Workingmen's movement found expression in the constitution. If the Sand-lot party had had its way, the most absurd lot of restrictions and regulations would have been adopted to force the Chinese to leave the country. Indeed one member introduced the following as an amendment to the constitution.‡

"*Resolved:* The Chinese must go." This might have been taken as a joke had it not been supported by a large number of proposed amendments equally wild and absurd: such as prohibiting Chinese from fishing in the waters of the state; that they should not be allowed to hold property, or to trade, peddle, or carry on any mercantile business; of requiring from any person an oath to the effect that he had not, after

*Debates and Proceedings of the Constitutional Convention, p. 1076.

†An inconvenience from this restriction was experienced in San Francisco in 1882, when for two or three months the city was in darkness because of the exhaustion of the funds to pay gas bills.

‡Henry K. Turner of Sierra county. He was a native of Maine, a graduate of Bowdoin College, and a farmer. *Debates and Proceedings, p. 84.*

ninety days after the adoption of the constitution, employed in any manner any Chinaman or had not bought from, or sold to, or used anything made or produced by such alien, as a qualification to voting or maintaining a suit in court; of testifying in court in matters in which white men were concerned; and one member went so far as to move that the first section of the declaration of rights be amended as to read: "All men, who are capable of becoming citizens of the United States, are by nature free and independent." It is to the credit of the committee on Chinese that in view of the fight that had been made and the strength of the anti-Chinese element in the convention, they made so conservative a report as they did, considering the fact that the Workingmen and the Grangers had a clear majority in the committee. The ablest men, however, were in the ranks of the non-partisans. The chairman, John F. Miller, said that the first section of the article was the only one which had the consent of a majority of the committee. This article simply authorizes the legislature to enact all needful laws to exercise the police power of the state to impose conditions and provide means and mode of removal from the state of all aliens who may become vagrants, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, or otherwise dangerous or detrimental to the well-being or peace of the state. It was expected, said Mr. Miller, by a great majority of the people of California that this convention would take decisive action in respect to what is regarded by the people of the state as a great, increasing, and expanding evil—the introduction and presence of large numbers of

Chinese. The committee to whom was referred this question was not able to agree upon any definite plan to be adopted by the state for the extirpation of this evil. All agreed, he said, that Chinese immigration was an evil and that if possible, further influx of Chinese to this country should be stopped; but they differed in the measures which should be adopted to remedy the evil. It was therefore agreed to report to the convention three distinct plans and while a majority of the committee was in favor of one or the other of these plans, it could not be said that all the members of that majority were in favor of any of the plans except the one embraced in the first section of the article.

The first plan proceeds upon the theory that the state has not within itself the power to prohibit Chinese immigration. It proposes to deal with these people as a part of the population of the state after they have once mingled with and become a part of the people; and whatever may be done under the first section, must be done under the police power of the state.

The second plan absolutely prohibits the further immigration of Chinese to the state. This plan, said Mr. Miller, would—if the state had the power to enforce such a prohibition—end the Chinese question at once. "But I take the ground," said he, "that the state has no such power. I think it is impolitic and unwise for us, at this time, to take any such position." The third plan contained the most violent of the tenets of the anti-Chinese party. It provided that foreigners ineligible to become citizens of the United States should not have the right to sue or be sued in the courts of the state, and that any lawyer appearing for or against

them should forfeit his license to practice law; that no such foreigner should be licensed to carry on any business, trade, or occupation in the state, nor should any corporation employing them be granted such license; they should not be permitted to catch fish in the waters of the state; nor to purchase, own, or lease real property. The presence of such foreigners was declared to be dangerous to the well-being of the state and the legislature was directed to discourage their immigration by all means within its power, and to provide for their exclusion from residence in any portion of the state it might see fit, or from the state; provide methods, by their taxation or otherwise, for the expense of such exclusion; provide penalties for the punishment of persons convicted of introducing them within the forbidden limits; and to delegate all necessary power to cities and towns for their removal without their limits. Public officers were forbidden to employ Chinese in any capacity whatever. Violation of this provision was made ground for removal from office; no person was eligible to any office in the state who, at the time of election and for three months before, employed Chinese, and the right of suffrage should be denied such person.

This plan was characterized by the chairman of the committee as a plan of starvation by constitutional provision. "If the Chinese," said he, "are not to be employed by anybody, are not permitted to labor, they cannot live. Because by labor, all must live, and if you deprive them of the right to labor, they must starve. * * * I hold that the right to labor is as high and sacred a right as the right to live. That you

cannot deprive these people of this right under the treaty with China. That it is against the spirit of the age, against all laws of civilized communities. But this third plan goes still further; it strikes at the liberty of the citizens of the United States who, as citizens, have the right to employ whoever they choose." He said he had opposed these sections in the committee and would oppose them here (in convention). As to the statement that the first section did not go far enough he said, "It goes as far as the state can go. It goes to the very verge of constitutional power, and the state can go no further." He made the statement that a large proportion of the Chinese who came to California under labor contracts were of the criminal class and he gave the number of Chinese then confined in the penitentiary, in the jails, and in the insane asylums. He said that under this first section these could be removed from the state. "If the people over on the eastern side will not hear our complaints;" he said, "if they say this is not an evil, and that the Chinese are as good as any other class of immigrants—that we are making a great fuss and noise about nothing—let us send over four, or five, or ten thousand of these people—those who are dangerous to the well-being of the state—belonging to the criminal and diseased classes; let us send them a brigade or two of these Chinamen and see how they like them. There would be no surer way of changing their views upon the Chinese question." Mr. Miller's address was eloquent and forceful; his theories well digested and his knowledge of his subject extensive. He reviewed the general policy of the national government in respect to the

immigration of foreigners from colonial times down through the whole life of the republic, and denied that Chinese exclusion was a departure from the time-honored and uniform policy which had made the United States an asylum for the oppressed of all lands, while its laws had welcomed and protected all who came beneath the ægis of its constitution. He held that the nation's invitation to immigrants had been limited to white men, men of our own race and color, of similar aspirations, hopes, desires, and aims in life. Men who assimilate with our people and are fit to assimilate, who build their homes among us, respect our laws, love liberty and representative government, who become part and parcel of our people, who follow our fortunes and brave our disasters, who stand shoulder to shoulder with us in battle, who fight for the republic and are ready to die in her defense. These are the sorts of immigrants who have been invited by our laws. Already two-fifths of the adult male population of California is Chinese, said the speaker, and the number is steadily increasing. It is an unassimilative population and unfit for assimilation with people of our race. Were the Chinese to amalgamate at all with our people it would be with the lowest, most vile and degraded of our race, and the result of the amalagamation would be a hybrid of the most despicable, a mongrel of the most detestable that has ever afflicted the earth. We are confronted on the other side of the Pacific with four hundred and fifty millions of the same variety of men as those already here, and these have disorganized our labor system, brought thousands of our people to wretchedness and want, degraded labor to the standard

of brute energy, poisoned the blood of our youth, and filled our streets with the rot of their decaying civilization. There are millions yet to come. Will they come? The history of the human race is descriptive of a westward march of mankind from the plains of Asia through India and continental Europe. One type of man has succeeded another and one nation has supplanted another until the first great ocean barrier was reached. Individual men from the most intelligent and enterprising crossed the great deep and planted themselves upon this continent to find a new or lost and forgotten race, which they have supplanted, and now, on the California shore of the Pacific, stand looking out over the broad ocean toward the land from which man started.

It has been well said that, through climatic causes, the developing influences of travel and scenery, the effect of varieties of food, and other causes, the man who stands upon the shores of the Pacific is no more like the man who has remained on the other side than two beings of different origin. What has caused the migrations of the human race? Under the operation of the Malthusian theory—that there is a constant tendency in all animated life to increase beyond the nourishment provided for it—man first moved westward because to the west was land and subsistence. A learned scientist declares that it may be accepted as a law that all great migrations have one inducing cause —hunger; and it is a fact of history that all great migrations have been in search of subsistence, or land from which to wrest the needs of animal life. Will the Chinese come? Yes, because they are hungry. It



SAN DIEGO
The Panama-California Exposition
El Prado



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is estimated and stated by the London *Times* that seventy millions of the people of the northern provinces of China are in a state of starvation. Seven or eight millions have already perished, and millions more must die. "Will the survivors of this horror remain in China? No. Where will they go—Westward? There is no room. Northward? The frozen steppes of Siberia offer nothing, and they are guarded by Russia. Where do they turn their eyes? To the far-off mysterious land of plenty where many of their race have gone, to the east, over the great sea, to America, to the land of plenty—California."

This nation, said the speaker, is now stocked with a vigorous, intelligent, brave, and enterprising people who now number over forty millions. It is well ascertained that such a people, under such conditions of environment, will by natural increase alone double their number every twenty-five years. Making all proper allowance for loss by war or pestilence, the nation, without further conquest of territory, will number within a century more than two hundred millions of people. Accepting the Malthusian theory, it is only a question of two or three centuries when the population of the United States, unless limited by individual prudence, or by war, or by pestilence, will have increased by natural increase of the present stock alone beyond the capacity of the soil to furnish subsistence; that within two hundred years this nation will be, under this process, over populated and underfed.

"The Chinaman," said Mr. Miller, "is a result of a training in the art of low life. * * * The life of the average Chinaman has been a mere struggle for animal exist-

ence. He bears with him the heredity of poverty and unrelenting toil for food through thousands of years. His physical organs have become adapted to insufficient food. There has been a process of selection going on in China under which the heavy feeders have fallen out and under the law of the 'survival of the fittest' none but those who can practice the most rigid self-denial as to food remain. They have also been trained by centuries of incessant toil to procure the maximum of subsistence from the soil. The result of this life is a sinewy, shriveled human creature, whose muscles are as iron, whose sinews are like thongs, whose nerves are like steel wires, with a stomach case-lined with brass; a creature who can toil sixteen hours of the twenty-four; who can live and grow fat on the refuse of any American laborer's table. Capable, as a late writer says, 'of driving the vulture from his prey, which he consumes, and then devours the unclean bird itself.' He is a human creature without sympathy; supremely selfish, for his struggle with nature has kept him busy with himself. Without aspirations—for hope of better things fled from his race centuries ago. The white man cannot compete in the field of labor with such a being as that—he cannot until he becomes such as the Chinaman is. To compete with the Chinese our people must give up their homes, abandon the family altar, tear down their school houses, blot out their civilization, and adopt the Chinese mode of life. If the white man is to compete with the Chinaman he must adopt a cheaper style of dress, he must inure himself to the cold, he must labor in the night; he must arise at the first gray streaks of dawn and at his work.

THE REDWOODS

Grove of the Bohemian Club on Russian River

Each year, at this Midsummer Encampment, the Club produces an original musical play. The author, composer, and players are all drawn from the membership of the club. It is produced but once and can be witnessed only by members of the club and such guests as may be invited by the board of directors.

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Then what shall be his food? No longer the savory meats, the pure, white bread made by willing hands. No! He must live as the Chinaman lives; work as the beast works; there can be no recreation, no rest, nothing but toil. * * * But the economist says. 'What becomes of the philosophic theory of the survival of the fittest?' History does not record that the types and varieties of men who have succeeded in supplanting others of different type were the fittest morally or intellectually. The fittest is he who can survive, that is all there is of the doctrine: not that he is the highest type of man.

"The question here is not merely as to the economics of labor, but what is the effect of this immigration upon the life, civilization, and government of this country and its people? * * * The American could not if he would in centuries become such a man as the Chinaman, and heaven forbid that he should. If the Chinaman comes and occupies the fields of labor now open to the white man, it operates in restraint of marriage among the whites, and stops white immigration. Increase of white population is thereby stopped, for the prudent, intelligent, sympathetic white man will not bring innocent beings into the world to see them suffer and starve before his eyes. I repeat, therefore, that to permit unrestricted Chinese immigration, supplants white population, and this cannot be too often repeated. * * * Is this wise? Is there any good sense in such a course? We have driven one nation, a regal race, from this land. Naught remains of that race but a weak, hounded, and troubled remnant, standing on the shores of the Pacific, pensively, sadly looking

upon the broad expanse towards the setting sun. We have left the Indian nothing, and nothing of him scarcely remains but his sad, doleful history—a history of outrage and wrong. No mark is written upon the grave of his race but that awful, cruel word 'Fate.' He has gone down under the same relentless law, the survival of the fittest, and now there are those who would supinely yield to the bland, cunning, selfish Chinaman all that we have wrested from the Indian, and write over the tomb of Anglo-Saxon civilization and the sepulchre of republican liberty, the same fearful word, 'Fate.' * * * If we must have immigration, let us choose it from the Anglo-Saxon race, or kindred varieties of men—men who will build homes and love liberty; who appreciate republican institutions and the grandeur of western civilization, and whose intelligence and loyalty to the principles of our government render them worthy of the great privilege of American citizenship."*

We have given this report of the committee on Chinese and the address of its chairman at some length because the Chinese question was largely responsible for the calling of the convention at this time, and the address of Mr. Miller is a fair expression of California opinion.†

Mr. Charles V. Stuart of Sonoma denounced the article in emphatic language as the most savage monstrosity ever penned by man. These men, he

**Debates and Proceedings, p. 628-633.*

†John F. Miller was born in Indiana in 1831 and came to California in 1853. He returned to Indiana in 1856; served during the Civil War in the Union Army from 1861 to 1865, retiring as major-general by brevet; returned to California in 1865; was collector of the port; president of the Alaska Commercial Company; United States Senator 1881-1886, and died in the latter year in Washington, D. C.

said, after being invited to our shores, after building our railroads, reclaiming our lands, planting our vineyards and orchards, reaping our crops, manufacturing our woolen and other goods, relieving our wives and daughters of household drudgery, and adding millions to the wealth of the state and nation, were to be subjected to this unjust and inhuman article in the organic law of the state; and he appealed to the members for justice for the Chinamen and begged them not to destroy the industries of the state. "I am no stranger here," he said, "nor to the material interests of this state, after a residence of thirty years in it. I have no sacrifice to throw before this Juggernaut or to appease the anger of Moloch, and am sorry to see so many of this convention standing indifferently by, while others are trying to destroy the prosperity of our state and nation by silently encouraging this insane crusade against Chinese labor; for over one hundred thousand men would follow their expulsion. * * * Don't they know that the loss of this vast army of labor would bankrupt and overwhelm all the manufacturers and most of the producers of this state? Deprive us of them, sir, and you will have no more ships to load from our bays, no more fruit to adorn our tables, no more woolen goods to warm our bodies, no more wine to cheer our lives or sustain our bodily infirmities. All will return again to its primitive condition—a state worse than was France after (the Revocation of) the Edict of Nantes, or of Spain after the expulsion of the Moors." He denied the charge made that the Chinese were penurious in their diet and ate nothing but rice. He claimed that they lived in California at a greater cost and

had a greater variety of food in their ordinary repast than did most of their Caucasian enemies. Of pork, poultry, fish, and vegetables, they used large quantities, he said, and for which they paid high prices; they also used large quantities of American made clothing, boots, shoes, and hats; the general condition of health among them was good, and each and all went through their ablutions from head to foot daily. In regard to the cry that the country is overrun by the "heathen Chinee" and that white labor is driven from all employment, to starvation, and from the country, he said: "There is not a man on this floor but knows this is not so. He further knows that it is only the cry in connection with 'the Chinese must go,' uttered and continually repeated, day by day, by a few insane foreign and alien leaders of a party in San Francisco who are deceiving their followers, and will cause want and distress in their wake. Who form our rioters and hoodlums?" he asked. "Who fill our alms-houses? Who are plotting to overthrow our common schools? Who stuff our ballot-boxes? Who are conspiring to overthrow and destroy our government, and to utterly stamp out liberty, that depotism over conscience, mind, and muscle, may rise upon the ruins? Who constitute the Mollie Maguires? Who burn our railroad depots? Who threaten the lives of our best citizens? Who are plotting to despoil our wealthy men? Who claim two-thirds of our public offices? Not Chinamen.* Who then are they? You may

**Debates and Proceedings, p. 1238.* Charles V. Stuart was born in Pennsylvania in 1819 and came to California, overland, in 1849. In 1850 he, in partnership with Bob Ridley, kept the Mansion House at the Mission in San Francisco, in one of the mission buildings. Later he removed to Sonoma valley, where he became one of the first viniculturists.

search history through all time, and examine the nations of the east through their rise and fall, and you will find China where it now is and has been for over five thousand years. Yet you will fail to find an instance where she has overrun or crowded out a single nation, however near; on the contrary, her laborers, traders, and merchants have been encouraged to settle in all the Dutch and Spanish Philippine Islands, as well as in the English possessions of India and the French in Cambodia, and many of them are today their merchant princes and bankers in many of these possessions. I charge the city of San Francisco with cowardice," he exclaimed, "in not protecting them in the exercise of their rights of 'life, liberty, and the pursuit of happiness,' which all men are guaranteed under our flag; while they have collected millions of dollars in taxes, licences, and otherwise, yet they furnish them (the Chinese) with no protection in return. They pass cruel ordinances against them; they harass and annoy them through every device the law can invent; and why are similar outrages heaped upon them in nearly every county, town, village, or hamlet in this state? Tell me; tell me; oh tell me, why are they not protected like others in their honest toil? In case the outrages on these people do not cease in this state, and it refuses longer to protect them, then I call upon our government to give them the ballot, that they may protect themselves."

While the address of General Miller voices the prevailing opinion in California concerning the possible danger in unrestricted immigration of Chinese, and while his picture of the average Chinaman who has the

heredity of thousands of years of poverty and unrelenting toil for food may be true of the race in China, it is not true of the Chinaman in California, as all who have been brought into close contact with him know. The Chinamen in California live better and more generously than thousands of European immigrants of the lower class; also they know their value and they demand and receive fair wages. Mr. Stuart was not a practiced speaker; he did not have the eloquence of General Miller nor did he have the educational advantages possessed by the committee's chairman; but he was his equal in intelligence and honesty of purpose, and his statement in regard to the Chinaman is true. We hear much in California of working men being crowded out of employment by Chinese; of girls unable to obtain work in families as servants; while all Californians know that the great mass of the men who tramp from end to end of the state, seeking work, are only fearful of finding it; and the distressed householder well knows the difficulty of obtaining female help in her house, while the intelligence offices are filled with women willing to accept large wages in a family where there is little to do and several to do it.

The article as finally adopted authorizes the legislature to pass such laws and regulations as they in the exercise of the police power of the state may deem necessary. It forbids the employment of Chinese by any corporation formed under the laws of the state, or upon any public work, and directs the legislature to take measures to prohibit the introduction of Chinese

into the state and to authorize cities and towns to remove Chinese from their limits or confine them within prescribed bounds.

The United States circuit court promptly declared that the federal government alone could determine what aliens should be permitted to land within the United States and upon what conditions they should be permitted to remain. The court also said that the section forbidding corporations to employ Chinese was in violation of the treaty with China and void. The section forbidding the employment of Chinese on public works has not been tested. No Chinamen, so far as we are aware, have ever been employed on any public works in this state and there has been no occasion for testing the law. It is claimed, however, that the state as an employer of labor is exercising a non-political function and may hire whom it pleases, as a private citizen may do. The force of public opinion, thus expressed in the constitution, has been so influential upon public officers elected by popular vote, that they have generally taken care that no contractor for public work should employ Chinese in his service.*

Eight hours was declared to constitute a day's labor on any public work.

The University of California was declared to be a public trust and should continue in the form and character prescribed in the act creating it. It should be non-sectarian in the administration of its affairs. The interest on the money derived from the sale of lands donated by congress should be used to maintain at

*Justice Shaw before Commonwealth Club, March 24, 1909.

least one agricultural college, and no person should be debarred admission to any of the collegiate departments of the university on account of sex.

State indebtedness could not be incurred for a greater amount than $300,000 unless in case of war, invasion, or insurrection, except for a single object, and such indebtedness must be submitted to a vote of the people at a general election. We have seen how easily the legislature handled this provision.*

The holding of large tracts of land was discouraged as against public interest, and lands belonging to the state, suitable for cultivation, should be granted to actual settlers in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as should be prescribed by law. All property, real or personal, owned by either husband or wife before marriage, and all that acquired by either of them by gift, devise, or descent, should be separate property.

The use of all water already appropriated or that might hereafter be appropriated, for sale, rental, or distribution, was declared to be a public use and subject to the rule and regulation of the state; and any company collecting any other than the established rates would forfeit its franchise and works.

On Monday, March 3, 1879, the constitution, duly engrossed, was presented for final action and was adopted by a vote of one hundred and twenty to fifteen, after which it was signed by the members, and at 1:15 p. m. the convention adjourned *sine die*. The statement made by one California writer that "Almost every broad-minded, able, and experienced delegate

*This volume, page 284.

either voted directly against it or did not vote at all; and, with very few exceptions none entitled to that designation voted for it," is not borne out by an examination of the vote, which discloses such names as Joseph P. Hoge, president of the convention, Morris M. Estee, Abraham C. Freeman, G. A. Johnson of Santa Rosa, Hiram Mills, Marion Biggs, Dr. Shurtleff, Walter Van Dyke, William Van Voorhies, Dr. Morse of San Francisco, John M. Rhodes of Yolo, and Judge Isaac S. Belcher, voting in the affirmative; while Alexander Campbell, aye, was paired with Laine, no, and Judge Hale of Auburn, aye, was paired with Shafter, no. These men were certainly equal in intelligence with any in the convention—or in the state for that matter.

On May 7, 1879, the constitution was submitted to the people and was ratified by a majority of 10,820 out of 145,088 votes cast, and went into effect July 4, 1879, as to officers and their terms, and on January 1, 1880, it became in a general sense the organic law of the land.

The debates in the convention show great ability on the part of many of its members, and the impracticability and inadvisability of the radical measures advocated by the so-called reform element were so clearly shown in the discussion that the good sense of the majority promptly rejected them.

One of the most frequently heard objections to this constitution is that it hampers legislation with too many limitations; that the numerous restrictions upon legislative power have an evil tendency, in that they make the members of the legislature feel that they are

too strictly confined in their powers and that they are without responsibility; that laws of doubtful validity and usefulness are excused on the ground that if they are in excess of legislative power, the courts will promptly declare them invalid; that the presence of so many limitations engenders carelessness on the part of the people in choosing legislators. One of the chief arguments in favor of calling a contitutional convention in this year of 1914 is that an instrument that has been changed one hundred times by different authors and on different occasions and to which thirty more changes are to be voted upon this year, can have little coherence and that there must be a lack of harmony and more or less friction between its different parts. But these hundred amendments already adopted and the thirty amendments proposed, do not give the legislature more power or simplify the constitution, but on the contrary they reserve to the people more and more power and inject into the constitution greater and greater particularity.

When the constitution came to be submitted to the vote of the people it was vehemently opposed by the corporations and the wealthy class, while some of the banks announced that they would go out of business if it was adopted; and it was claimed on all sides that the system of taxation it provided would drive away capital. An influential committee composed of leading men of the great corporations was formed and steps were taken to secure to the opponents of the constitution the support of the press. In this they were largely successful, and in San Francisco they had the support of all the journals but one. The struggle

was severe, but the Granger vote combined with the Workingmen and others not included under those designations who approved of the instrument were sufficient for a fair majority. San Francisco, the home of the agitation, rejected it by a majority of 1,592 out of a total vote 38,032; while Oakland gave 1,496 majority against it, the city of Sacramento gave 1,251 majority against it, and Santa Clara county gave 679 majority against it.

It cannot be claimed for this constitution that it is one of the best ever written any more than it can be maintained that it is so intolerably bad that it is no constitution at all, as was recently said by a man politically prominent; and the statement, made by this same individual, that Mr. Bryce in his American Commonwealth published the document "as the most extreme horrible example he knew in all the world of how not to make a constitution," is as false in fact as it is in syntax. While the constitution made a bad failure in its endeavor to shift the burden of taxation and to overrule the constitution of the United States, it contains a number of excellent provisions. Labor, which worked diligently to improve its condition, is still subject to the law of supply and demand; legislators are still approached by the corporation attorney; the Chinaman still works contentedly, and the railroad commissioners were as wax in the hands of the companies. But it had little influence upon the welfare of the state or the prosperity and happiness of the people. The timid capitalist soon emerged from his bomb-proof, and with him matters are as they were before. His investments remained in California, and

none of his banks retired from business. The farmer harvested his crops and good prices helped him to forget his woes. That the constitution as finally adopted was a disappointment to the Sand-lot party may be assumed. They could point to no accomplishment of their avowed purpose save in the ineffectual provision for taxation of credits and in their foolish attempt to over-ride the constitution of the United States in the Chinese article.

CHAPTER IX.

TRADE AND TRANSPORTATION

1776-1914

WE do not intend to give in this chapter a mass of dry figures and statistics, though we have them in abundance, but will try to convey to the uncommercial mind a readable account of the difficulties under which California labored in her efforts to establish trade relations with the world and the degree of success she has attained.

Up to the close of the eighteenth century California had no commerce. No foreign vessel was allowed to put in to any harbor except in stress of weather or shortage of food or water. Even in that case, aid was refused unless investigation showed the necessity for it. The people were strictly forbidden to trade not only with foreign ships but with those of Spain. They could only buy from or sell to the regular transports which came each year bringing government supplies to the presidios and missions. The government pursued a home industry policy in respect to sending the supplies: restricting shipments to such articles as could not be produced or raised in California, and the transports carried to San Blas in return a small quantity of salt, salted meat, tallow, and otter skins. Within the limits of the province goods were delivered from the presidio warehouses to the soldiers for their pay and to settlers for grain and other supplies and very little money was used. Supplies furnished the presidios were paid by goods in part and the balance settled by draft on Mexico. This was about all that could be called trade, since the distribution of supplies constituted the traffic of the country. Each year an appropriation was made from the royal treasury in Mexico for all

expenses in California, and each year in March or April a list was sent from California of all the articles needed for the following year and which could not be purchased in the province. From the appropriation was deducted the amount of drafts on Mexico with which supplies obtained in California had been paid, and also the amount of various royal revenues retained in California. Then there was added to the appropriation the amount of supplies furnished in California to vessels, or by due authority to native laborers, or otherwise properly disposed of. This done, the needed goods were purchased at Mexico or San Blas and shipped north and the balance of the appropriation sent in coin. No luxuries could be included in the requisitions and the soldiers would sometimes exchange the regularly furnished goods needed by their families for liquors, bright-colored cloths, and worthless trinkets brought by the officers and sailors of the transports on private venture. This was contraband trade and to prevent it the governor sometimes delayed opening the regular supplies until after the vessel had departed. The accounts of each presidial company and of the volunteers,* and artillery company were kept separate, and the *habilitado* (pay master and accounting officer of the company) kept an account with each man, whether soldier, civilian, or priest, and there was usually a balance of a few hundred or few thousand dollars for or against each company, according as the *memorias* (memoranda—invoices) were less or greater than the net appropriation. There was only one habilitado in the province

*Catalonia Volunteers—a corps of the regular army, a battalion of which was serving in California.

that was capable of keeping his accounts straight* and the others were always in more or less confusion. The company was responsible for its habilitado's deficit and the officer behind in his accounts was obliged to live on twenty-five cents a day while under arrest and his pay went to relieve the company's liability. These embarrassments were as frequently the result of lack of skill in keeping accounts as of honesty in handling public funds, and it was not until 1795 that the accounts of the first expedition of 1769 were settled. Many of the soldiers were by that time dead and their heirs scattered. Where the sums due them were large their heirs were sought, but if not found, the money was spent for masses for the souls of the departed pioneers.†

It was in vain that the governor, Diego Borica, (1794-1800), petitioned the home government for more liberal treatment of the colony in the matter of trade, and that the habilitado general in Mexico reported in favor of permitting the exportation of furs, hides, fish, grain, flax, oil, and wine from the province, stating that nothing but a market for produce would arouse California industries from stagnation; but beyond one or two small concessions to favored individuals nothing came of it. Prices in California in 1795-1800, were: wheat, $3 per fanega ($1.88 per bushel); wool 9 cents per pound; bulls $3; cows $5; calves $5; lambs $1; horses $9; mares $4; colts $5; blankets $4.50; brandy $1.07 per pint; figs 30 cents per pound; olive-oil 40 cents per pound; chickens 50 cents per dozen. Imported articles sold for: hats $30 per dozen; stockings

*Hermenegildo Sal.
†*Provincial Records, Vol. VI, p. 569-708, Spanish Archives of California.*

$9 to $18 per dozen; handkerchiefs $13 to $18 per dozen; gold lace $28 to $50 per pound; chocolate 1.75 reales to 3.5 reales per pound (22 to 44 cents).*

After the beginning of the new century some enterprising Yankee skippers came on the coast in search of furs and took the risk of confiscation to secure a cargo of skins and land a few goods in payment. What little trade there was was still in the hands of the officers of the transports and again the attempt was made to induce the government to adopt a more liberal policy towards California. In 1803 the viceroy issued orders prohibiting officers of transports from trading at all, or from refusing to carry the goods of traders and private persons, which must be taken on board whenever there was room after the supplies of the presidios and missions had been provided for. The returning transports could bring wheat and other produce to San Blas and under this order the Ortegas offered 300 fanegas of wheat, while the great ranchos of Felix, Nieto, Verdugo, Reyes, and Polanco tendered from 100 to 200 fanegas each, and sixteen other rancheros offered from 40 to 200 fanegas. But these shipments were subject to many conditions: the products of tithes and other royal property must have preference and the president of the missions announced to the padres that the vessels would receive of mission exports certain proportion from each mission. After that the public could be served. The comandante of Santa Barbara in his report of 1805 called attention to the necessity of an outlet for California produce and suggested that a separate vessel be devoted to

*Bancroft, *History of California, Vol. I, p. 625-632.*

that special purpose. It does not appear that this was done and the people turned eagerly to the American ships which would not only take their produce but would furnish them with all sorts of wines, liquors, silks, dry goods, clothing, and "Yankee notions," at prices the San Blas merchants could not meet. All these goods were confiscated if captured and, previous to 1805, became the lawful property of the faithful subject of the king who seized them. In 1801 the authorities at Mexico sent to California Joaquin Sanchez, a sergeant of marines and an expert in the cultivation and preparation of hemp and flax, to introduce and superintend the culture of those plants. The plan was a failure so far as flax was concerned, but in regard to hemp the government took all that was raised and Governor Arrillaga was instructed to deal liberally with the farmers and pay good prices. In 1810 the transports took 120,000 pounds of hemp fibre, worth $16,800, leaving behind 98,750 pounds which they were unable to carry. This was the last shipment made, for in that year the revolution broke out in New Spain and the government could neither transport nor pay for the crop; thus the new industry came to a sudden end.

The statistics of live stock for 1810 show that the province had 132,000 cattle, 25,000 horses, 3,000 mules, and 160,000 sheep and other small animals, all valued at more than $1,500,000. The cost to the royal treasury for the administration of California was about $86,000 per annum, while the revenue was about $12,000, of which some $7,000 was received from the sale of tobacco —a government monopoly—in the form of *cigarros*, *puros*, and *polvo* (cigarettes, cigars, and snuff). The

entire white population (gente de razon) of California numbered in this year 2,130, and there was raised in the province 55,230 bushels of wheat, 11,400 of barley, 12,360 of corn, and 4,810 of beans, pease, and various minor grains.

Mexico entered upon the war for independence in 1810, and the struggle brought nothing but sadness to California. It was not that California felt an interest in the war, for she did not and took no part in it. But she missed her supply ships, for the transports no longer came, the soldiers received no pay, and want and suffering was their portion. The comandantes of the presidios complained to Governor Arrillaga that their men had no shirts and but little food. The governor sympathized with them and laid before the viceroy the sad condition of the California presidios. The missions were drawn on for food supplies which were paid for by drafts on Mexico. An American smuggler, the *Mercury*, Captain George Washington Ayers, was seized and condemned, and in addition to the merchandise she carried, $16,000 in money was found on board, which the governor faithfully remitted to Mexico in the shape of a draft on the treasury: a transaction whereby the provincial exchequer was replenished. Some ships came from Lima with goods to trade for hides, tallow, and other products, and the Russians, who had established themselves at Bodega on the coast of California, endeavored to open trade relations with their neighbors, the "brave and noble Spaniards of California."

The necessities of the people were such that a limited amount of trade with the American ships and with the

Russian settlement was winked at by the authorities, and after Mexico achieved her independence a custom house was established at Monterey and trade was openly encouraged. For years California was supplied with manufactured goods by Boston skippers who received in return, first otter, beaver, and seal skins, then hides and tallow. The opportunity for trade was eagerly seized by the Americans. The waters of California swarmed with sea-otter and fur-seals while the streams furnished a large number of beavers. The Americans secured from the Russians companies of Aleuts and took great numbers of seals and sea-otter. The Farallon islands, off San Francisco, and the islands of the Santa Barbara channel furnished quantities of these animals. The bay of San Francisco was full of sea-otter and the Russians in their bidarkas entered and hunted them under the very guns of the Spanish fort. The Russians maintained a station on the Farallones, whence in 1810-11 the ship *Albatross* took 73,402 fur seals, according to the log of the captain's clerk, W. A. Gale. Down to the year 1830 the Russians took on the California coast sea-otter numbering from five to ten thousand per year. These valuable animals that, according to Vallejo, were so plentiful in the bay of San Francisco in 1812 that the boatmen killed them with their oars, had in 1830 become very scarce. The best market for sea-otter skins was China where they sold for sixty dollars each. The American ships, after disposing of their merchandise on the coast of California, would sail for Canton, sell their skins, and load with teas and silks for Boston—a most profitable trade.

It is difficult, for lack of statistics, to estimate the extent of California's trade during the period of Mexican rule, but I think it is safe to say that the export of California product amounted, at its highest, to about $240,000 per annum, while the imports were about one-fourth less. The operations of the hide droghers have been made pretty familiar by Richard Henry Dana's book "Two Years Before the Mast" and need not be discussed here. The business was largely in the hands of Boston merchants until Bryant and Sturgis withdrew because they would not meet the competition of the smugglers.

With the discovery of gold came a change in the whole course of life in California. Trade sprang to enormous figures and the prices of goods rose very high. Beef, pork, and flour sold from forty to sixty dollars a barrel and other things in proportion. From all quarters of the globe came the gold seekers. Everything that would float was chartered for San Francisco and in 1849 over seven hundred ships arrived in that port; and the establishments of the Pacific Mail company made steam connection between California and the outside world. At first all rushed to the gold fields but the excessive toil, the exposure, and the hardships of the mining camps were very severe and many turned from the diggings to the cultivation of the soil and to the rewards of trade. Land was now in demand and the feelings of the immigrants were shocked to find so much of the best of it owned by the Californians. The big Spanish grants covering thousands of acres were abominations to them. They thought the Americans had conquered California and

that they had, or ought to have, a right to the soil. Then came the land commission appointed under the act of congress for the settling of land titles in California, and it proceeded to unsettle titles by questioning them. This resulted in the Californians losing the greater part of their lands which passed into the hands of speculating land sharks and "champertous attorneys," as Mr. Justice Greer termed them.* This great wrong done to those whom we were bound by all humane considerations and by the treaty of Guadalupe Hidalgo to protect, was one of the principal causes of the slow growth of California during the first fifty years of statehood. It is chiefly responsible for the great land monopolies. Had the land covered by the Spanish grants remained in possession of its owners, it would surely have passed into the hands of small proprietors as the demand for farms arose. As it was California became a land of enormous farms in which the soil was cultivated by hired laborers, employed for a short time in the spring and summer and discharged after harvest to shift for themselves until the next season's plowing began. This condition naturally led to the establishment of great wheat ranches and made California the chief exporter of wheat of all the states in the union.

The clipper ship era began in 1843 with the demand for a more rapid delivery in New York of tea from China. The first clipper ships, so called, were the Baltimore clippers, built for service as privateers during the war of 1812. They were modeled after the French luggers which visited American ports during the

*See Chapter on Land Titles, *Vol V, p. 140.*

Revolutionary war, and were the fastest craft afloat in their day. The Baltimore clippers gained a world-wide reputation for speed during the war and also later as African slavers and as Barbary pirates. They were brigs, brigantines, fore and aft and topsail schooners, and they rarely exceeded two hundred tons register. On July 28, 1849, the *Memnon*, under Captain George Gordon, arrived in San Francisco one hundred and twenty days from New York. She was of 1,068 tons burden, built in 1848 for the China trade, and on her first voyage was commanded by Captain Oliver Eldridge, one of San Francisco's best known citizens.* San Francisco, from a drowsy Mexican trading station, composed of a cluster of some fifty adobe houses and frame shacks, whose infrequent excitement had been the arrival of a New Bedford whaler or a Boston hide drogher, had suddenly become one of the great seaports of the world. During the year 1849, 775 vessels cleared from Atlantic ports for San Francisco, twelve of which were steamers. Almost every seaport along the Atlantic coast sent one or more vessels and they all carried passengers. The schooner *Eureka* sailed from Cleveland, Ohio, for San Francisco, September 28, 1849, via Welland canal and the River St. Lawrence and carried fifty-three passengers. In the year 1849, 91,405 passengers landed at San Francisco from various ports of the world, of almost every nationality under the sun and representing some of the best and some

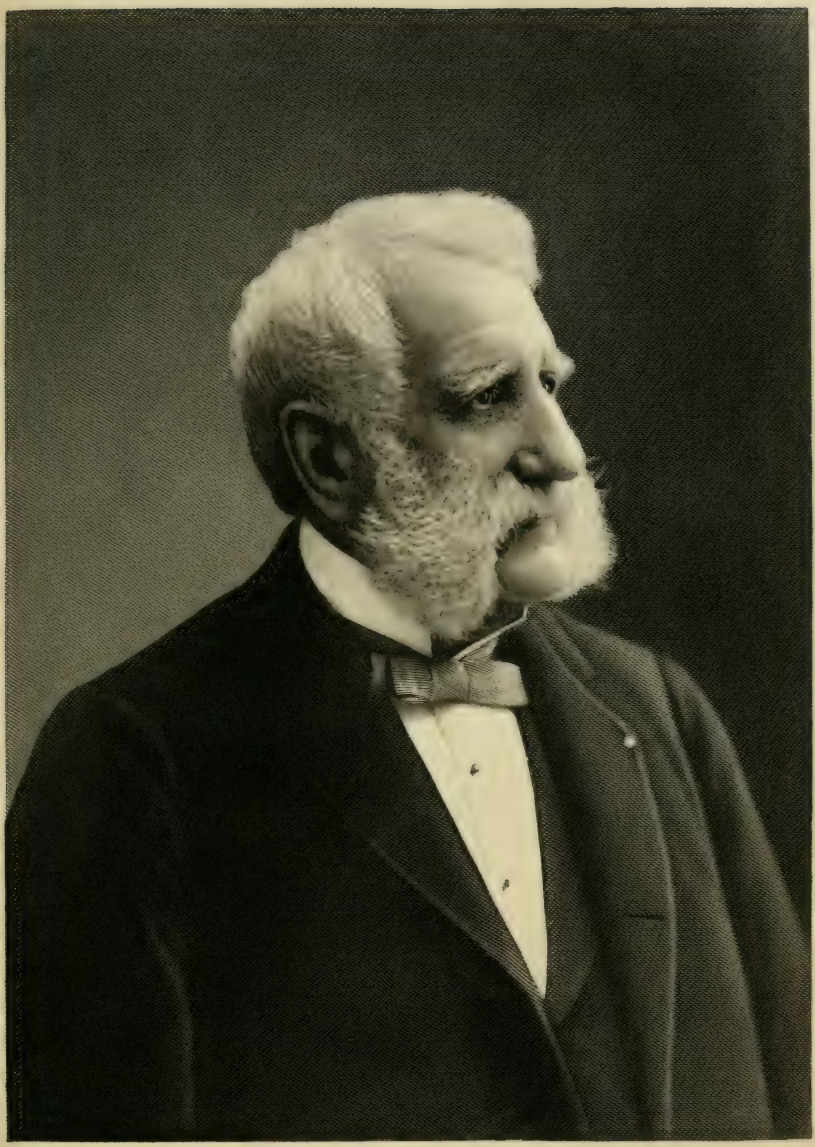
*In 1862 Captain Eldridge brought out the steamship *Constitution* from New York. On entering Rio de Janeiro Captain Eldridge paid his respects to the emperor, Dom Pedro II. Later Dom Pedro returned the call, and it was said that when Captain Eldridge received Dom Pedro, who was a magnificent looking man, it was difficult to determine which of the two was the kinglier man, the emperor of Brazil or the Pacific Mail captain.

OLIVER ELDRIDGE

Born at Yarmouth Port, September 19, 1818; died at San Francisco, December 16, 1902. Captain Eldridge was of old Plymouth Colony stock and of a seafaring family and was one of the early clipper ship commanders. Later he commanded the steamship *Atlantic* of the Collins Line, running between New York and Liverpool and during the early part of the Civil War the ship was used by the Government as a transport, Captain Eldridge continuing in command. In 1862 he brought out the *Constitution* for the Pacific Mail from New York to San Francisco, and in 1865 returned to San Francisco as agent for the company, which position he filled for eight years. Later he was agent for many years of the New York Board of Underwriters, a director of the Pacific Telephone Company and of other corporations. He was a man of the highest standing, of fine presence, of dignified bearing, and of most pleasing and courteous address.

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OLIVER ELDRIDGE



of the worst types of men and women. The officers and crews, with hardly an exception, hurried to the mines, leaving their ships to take care of themselves; in some instances the crews did not even wait long enough to stow the sails and be paid off, so keen were they to join the wild race for gold. Many of these vessels never left the harbor; over one hundred were turned into store ships, some were converted into hotels, hospitals, and saloons, while many gradually perished by decay and sank at their moorings.

The first vessel to sail, and one of the few of the California fleet of 1849 which escaped from San Francisco, was the ship *Carolina*. This vessel returned, via Valparaiso, and reached Boston February 20, 1850, with a cargo of copper. A letter from San Francisco to the New York *Herald*, dated February 28, 1850, stated that wages for seamen were then from $125 to $200 a month. As late as 1854, it was so difficult to induce crews to leave San Francisco that captains were frequently obliged to ship men out of jail, whether they were sailors or not, in order to get their ships to sea.*

The sudden increase in population caused an enormous demand for supplies of all descriptions and the most extraordinary prices prevailed. The speculators and shippers of merchandise in the east were as deeply interested in the output of the mines of California as the gold diggers themselves. No one could predict how long this state of affairs would continue; with them speed meant everything; a week or even a day's delay might result in heavy loss, or what was to them

*Arthur H. Clark, *Clipper Ship Era, p. 100-102.*

the same thing, failure to reap large profits. Hence the demand for speed, and shippers were ready to pay the most incredible rates of freight for a fast voyage from New York to San Francisco. The clipper ship *Samuel Russell* received $60 a ton in 1850, amount for the 1,200 tons she carried to $72,000, a little more than her first cost ready for sea. Other ships received the same rate but as ships increased in tonnage and number the rates of freight gradually declined until they reached $40 where they remained for several years.

It was not, however, all profit for the shipper. The enormous quantity of merchandise sent to San Francisco, with the scarcity of storage room to be had there, forced many sales of cargoes by auction which with the enormous cost of lighterage caused a great fall in prices and many ships were never unloaded.

The California clipper period covers the years 1850-1860, during the first four years of which nearly all these famous ships, numbering one hundred and sixty, were built. These splendid ships—the swiftest sailing vessels that the world has ever seen or is likely to see—sailed their great ocean matches for the stake of commercial supremacy and the championship of the seas, over courses encircling the globe, and their records, made more than a half a century ago, are still unsurpassed. After carrying their cargoes to California the ships would return round Cape Horn in ballast for another cargo at the same rate, as they could well afford to do, or would cross the Pacific in ballast and load tea for New York or London. Many of them more than cleared their original cost in less than one year, during a voyage round the globe.

The California clippers built from 1850 to 1854 were long, narrow, and exceedingly sharp, with lofty masts and great spread of canvas. The utmost skill and judgment were required to rig these heavily masted ships that they might spread canvas enough to sail fast in moderate winds and not have things carried away in a gale. Not only were the ships fast but were handsome as well and owners spent large sums of money on decorations. The deck fittings were of India teak and Spanish mahogany and were marvels of neatness and finish. Such was the renown of the California clippers that at Hong Kong they were immediately chartered for tea for the London markets at £ 6 to £ 6,10s per ton of forty cubic feet with immediate dispatch, while British ships were loading slowly at £ 3, 10s per ton of fifty cubic feet.

On August 31, 1851, the *Flying Cloud* arrived at San Francisco 89 days from New York—a passage never surpassed and only twice equaled—once three years later by the *Flying Cloud* herself, and once in 1860 by the *Andrew Jackson*. This run of 1851 was a most remarkable passage and made under circumstances by no means the most favorable, the ship having lost her main and mizzen topgallant masts and main topsail three days out from New York, sprung her mainmast, split fore and main topmast staysails in a thunder storm, and lost fore topgallant mast. The captain also had his first officer suspended for long continued neglect of duty and for cutting up rigging contrary to his orders. All damages were repaired at sea and during the run 374 miles were made in one day. Cape Horn was rounded July 23d and the run from

50° south in the Atlantic to 50° south in the Pacific was made in seven days, a record only once exceeded.*

The exploit of the *Flying Cloud* caused great rejoicing in San Francsico while in the Atlantic ports the news was received with enthusiasm and commented on in the press. On her return to New York the owners had her log from New York to San Francisco printed in gold letters on white silk for distribution among their friends, and her commander, Captain Josiah Perkins Creesy, fled to his home in Marblehead to escape notoriety.

A great many voyages from New York to San Francisco were made by these ships in from 90 to 110 days and the record shows 159 runs within an average of 92 days. The speed of these vessels will be seen when it is understood that the time of other ships, not clippers, between New York and San Francisco was from 150 to 200 days and even more.

Captain Robert H. Waterman, one of the most eminent of the clipper ship commanders, retired from the sea in 1851, after thirty-three years' service, and bought the Suisun rancho, four leagues, in Solano county, and founded the town of Fairfield. In 1852 he was made port warden and inspector of hulls at the port of San Francisco, a position he held for twenty-eight years.

The *Sovereign of the Seas*, 2,421 tons burden, launched in 1852, Captain Lauchlan McKay, carried a crew of 105 men and boys. She was built by Donald McKay at East Boston and was the largest clipper that had yet appeared. She sailed from New York on her maiden voyage, August 4, 1852, carrying 2,950 tons of cargo and her freight was $84,000. On her return she sailed

*The *Young America* made it in six days in 1854.

from Honolulu with a cargo of sperm oil for New York and on this voyage she made the record run of 424 miles in 24 hours.

One of the most remarkable trips this year was that of the *Comet*, 1,836 tons, Captain E. C. Gardner. She sailed from Boston, September 28, and when off Bermuda was caught in a terrific southeaster which carried away her foretopmast stays sending the foretopmast over the side, and making junk of the two topsails. Captain Gardener rerigged his ship at sea and took her into San Francisco, January 17, 1853, 112 days from Boston.*

The launching of these ships and their sailing days were great events. At Donald McKay's ship yard at East Boston, the *Great Republic*, the largest extreme clipper ever built, was launched on October 4, 1853, and it is said that thirty thousand persons crossed by ferry to East Boston while as many more thronged the Chelsea bridge, the navy yard at Charlestown, and the wharves at the north end of the city. Business was suspended and the schools were closed, that all might have an opportunity to see the launch; the shipping was dressed with bunting and the harbor filled with craft crowded with people. She was 4,555 tons register, length 335 feet, breadth 53 feet, depth 38 feet; while the truck of her mainmast towered 276 feet above her keel, and her main yard was 120 feet long. She was burned at the wharf in New York while loading for Liverpool for her maiden voyage.†

**Clipper Ship Era, p. 224.*

†The *Great Republic* was rebuilt—register 3,357 tons—and sailed for Liverpool, February 21, 1855. During the Civil War she was charted by the government as a troop ship.

A California clipper getting under way off Battery Park was a beautiful sight and an event in which a large part of the community was interested. It was customary for a clipper after loading to drop down the East river and anchor off Battery Park, then a fashionable resort. The ships seldom made use of tug boats, for with a leading breeze, they could sail to and from Sandy Hook much faster than they could be towed. As the tide begins to turn the capstan bars are manned and the chanty man breaks into song while the sailors roar in refrain. With the anchor apeak, the sails are loosed fore and aft, and with canvas set and yards braced to the wind, the clipper looks like some great sea-bird ready for flight. As she pays off and gathers way in the slack water, the crowd at Battery Park gives three parting cheers, the ensign is dipped, and the clipper is on her way to Cape Horn.*

So close was the contest for supremacy among these famous ships that sometimes two engaged in a match were scarcely out of sight of each other during a voyage of from 15,000 to 16,000 miles. The captains were perhaps the finest specimens of seamen that ever sailed out of New York, and they drove the ships day and night, crowding on all the canvas they could carry. It is related that the *Flying Fish* came up alongside of the *John Gilpin* off Cape Horn and Captain Nickels of the *Flying Fish* invited Captain Doane of the *John Gilpin* to come aboard and dine with him; which invitation Captain Doane records in his log book, "I was reluctantly obliged to decline."† These ships made

Clipper Ship Era, p. 118.
†Clipper Ship Era, p. 225.

THE COMET, CALIFORNIA CLIPPER,
OFF BERMUDA, 1852

[*By permission of Captain Arthur H. Clark and G. P. Putnam's Sons.*]

The *Comet* was built by William H. Webb, at New York, 1851. She registered 1836 tons, was 229 feet long, 42 feet beam, and 22 feet 8 inches in depth. In 1854 she made the passage from San Francisco to New York in 76 days, the record passage.

The *Comet* was sold under the British flag and renamed the *Fiery Star*. She sailed between England and Australia for several years and was burned at sea in 1865 while on a voyage from Australia to London. Her crew fought the fire twenty-one days and were rescued by the ship *Dauntless*.

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this run to San Francisco—the *Flying Fish* in ninety-two days and the *John Gilpin* in ninety-three.

In 1854 a change came over the California trade. The wild rush to the mines had subsided, the markets of San Francisco were well supplied with goods, and great speed in the transportation of merchandise was unnecessary. The rates of freight had declined though they were still good and this year saw the last of the extreme clippers launched. In 1855 a number of ships known as medium clippers were built, some of which proved to be exceedingly fast. In this year the first shipment of wheat from California was made, consisting of 4,752 bags (317 tons). This was followed by a full cargo of 1,400 tons for New York at twenty-eight dollars a ton freight. There was great financial depression in San Francisco in 1855 following the failure of many banks. Before a recovery was made the panic of 1857 was on and dullness of trade was general throughout the United States. It was severely felt by the shipping interests; freights from New York to San Francisco declined to ten dollars per ton and ships that had formerly loaded cargoes for San Francisco night and day and were hurried to sea as quickly as possible, now lay at their loading berths for weeks leisurely taking on such cargo as their agents could engage. Vessels lay idle at wharves of Atlantic ports for weeks and months with sails unbent, waiting for employment. With the changed conditions in California the demand came for vessels of greater carrying capacity and less expensive operation. The day of the California clippers was over. Some were lost, some were sold and their names changed and some have disappeared. Other ships took their

places and in some cases their names, but they were not the same; and while a moderate speed was attained the glorious days of the clipper ships were past.*

Conditions were changing in California. Under Spanish and Mexican rule the rancheros had always raised a quantity of wheat, and by 1784 shipments of wheat and flour for the garrisons were declared needless. During the earlier years of the gold excitement, however, little farming of any kind was done and almost all food was imported; but as the possibilities of the country began to be realized, agriculturists soon found that the cultivation of the soil promised greater rewards than digging for gold. In 1853 the importations of grain, flour, and beans aggregated eight millions of dollars, but in two or three years this had entirely ceased and in 1855 California began to export wheat. Even the dry and dusty plains of the Sacramento and San Joaquin, so much despised by travelers and the early comers, would, it was found, grow sixty to seventy bushels of wheat to the acre.

The California wheat, which is rich in gluten, was greatly favored by European buyers, who used it for mixing with the hard Hungarian and other European wheats, and it always commanded good prices. In 1860 the crop was 5,900,000 bushels with the yield about sixty bushels to the acre, and California rapidly came to the front as a large exporter. Ships came from all the principal European ports and a great trade sprang up. The larger part of it went to the United

*Most of the matter relating to the clipper ships is taken from Captain Arthur H. Clark's fascinating *Clipper Ship Era* (G. P. Putnam's Sons, New York and London, 1911).

Kingdom and ships coming for wheat brought to California coal from England, Scotland, and Wales. English ships also loaded with merchandise for Australia; thence with coal for California; thence with wheat for Antwerp or the United Kingdom—three charters for the round trip. In this manner was California supplied with foreign coals of high quality at low prices. The maximum of wheat growing was reached in the eighties when the product amounted to 50,000,000 bushels and California took rank as the first wheat exporting state in the union, while the high tide of wheat exports came in 1881, when about 33,000,000 bushels were shipped, making an important contribution to the food stuffs of the world, the greater part going to England. California cargoes were quoted in the Liverpool markets three months after shipment as "off coast," and per quarter (480 pounds). The large volume of this business brought great merchants to the fore, among whom, Isaac Friedlander became the most prominent and was known as the "Grain King." For a number of years Friedlander held this preëminence and then, through a series of untoward events, failed, and George W. McNear succeeded to the throne. In the path of the grain king lie many perils. That he may have the requisite tonnage to ship his wheat he must charter ships to arrive and these charters have ranged from sixty-eight down to thirty-two shillings per ton. As the grain fields are not irrigated the weather forms a most important factor in raising a crop and is closely watched during the rainy season. With the November and December rains, plowing begins as soon as the ground is softened by moisture. If the rains

hold off until after December a fair or medium crop is doubtful, and the ships will not come unless chartered in advance. Plentiful and timely rains, therefore, mean large wheat crops, and may or may not mean lower charters. If a shipper pays high for charters and the wheat market declines, he is hit on both sides and must make heavy remittances to meet his bills in London. A wheat cargo was usually carried by direct loan from the bank until the ship was cleared and then bills of exchange were drawn at sixty days' sight against the shipping documents and sold on the market; the banks buying them forwarded the bills to their London correspondents and sold their sixty days' banker's bills against them, the profit being the difference between the wheat bills and the higher priced banker's bills. During the wheat growing period a large business was done in gunny bags in which grain is sacked. These are imported from Calcutta and ordinarily cost about eight cents apiece. There was a large element of speculation in this business and the risk was great. If the wheat crop was large bags went up; and if the crop was a failure the bags had to be carried over for another year. As in the case of charters, the bags had to be ordered in advance and when it was uncertain what the crops would be, as there was not sufficient time to order and receive the goods by sailing ship after the crops were assured, and steamer freight was too high. In 1884 bags sold as low as five and three-fourths cents, causing several importing houses to fail. They are quoted now at six and one-fourth cents.

In 1887–8 there was a serious but disastrous attempt in San Francisco to corner the wheat market. It was



GEORGE WASHINGTON McNEAR

Born at Wiscasset, Maine, March 27, 1837; died at Oakland, Cal., December 29, 1909; came to California in 1860.

From 1875 to 1903 Mr. McNear was the chief exporter of wheat in California.

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G. W. McCrea



the time of Boulanger, the idol of Paris, the "man on horseback." He was going to give France her revenge and there was to be a great war. John W. Mackay of the "bonanza" firm spent much of his time in Paris and was intimate with Boulanger and his friends. The war was certain to come, and would be general; Boulanger was to be the head of France, and John Mackay would have the breadstuffs and feed the armies. Returning to California Mackay induced James C. Flood to join him in the speculation. The deal was placed in the hands of William Dresbach, a commission merchant having a London connection, and it was arranged that George L. Brander, vice president and manager of the Nevada Bank, would honor Dresbach's checks on the bank, the two principals remaining in the background. All the wheat in tide water warehouses was purchased as well as all that was afloat, and the buyers began bidding for future delivery. The cargoes off coast were warehoused at Liverpool or ordered to Antwerp. Prices began to mount under this energetic procedure and as the commission houses of San Francisco took Mr. Dresbach's contracts and sold him the grain for future delivery they bought the wheat for cash and held it until time for delivery, there being a difference between the cash price and the future sufficient to pay a handsome profit. At last the volume of business grew so large, the amount of wheat Dresbach had contracted to receive so great, that the grain men became uneasy, and prices had now risen until wheat was quoted above two dollars per cental. Dresbach was a man without credit and had made two or three failures. The members of the Call Board who had been

accepting his contracts appointed a committee to see Mr. Flood and ascertain who was behind the deal. The committee went to the Nevada Bank, saw Mr. Flood, and laying the matter before him said that the options bought by Mr. Dresbach had reached so large a figure they were unwilling to go on without knowing that some responsible person was behind him and that payments under the contracts would be made. Mr. Flood said: "You are accepting Mr. Dresbach's contracts?" "Yes, sir," answered the spokesman. "Well, you may go on taking Mr. Dresbach's contracts," said Flood. "Do you mean that, Mr. Flood?" said the chairman of the committee. "Yes, sir! I do," was Flood's reply. The committee returned and reported the conversation. The grain men were satisfied and the business went on merrily until one day Dresbach refused to take delivery of wheat and made an assignment. Mackay and Flood had put in all the ready cash they had, the bank vaults were cleaned out, and it was said that the bank had, for some time, been buying telegraphic exchange on London and paying for it with sixty day bills, and meeting these bills by drawing others. When the San Francisco banks refused to buy the Nevada bank's bills any longer they were sold in New York, and when New York refused to take them, the end was come, and Dresbach threw up his hands. The effect was tremendous. Mackay, who was abroad at the time hurried to San Francisco and both he and Flood professed the greatest indignation that their trusted employee should have so betrayed their confidence and they denounced him on all sides. He had, they said, taken advantage of Mackay's absence in Europe and

Flood's illness at Menlo Park to loan enormous sums to Dresbach—a man to whom they gave no credit whatever—and had involved them in great losses. Dresbach said nothing. Brander was summarily dismissed from his position and he retired without a word for himself or any explanation to the public. It is said that he received $100,000 cash, for acting as scape-goat —Mackay not caring to appear among his New York, London, and Paris friends as having engaged in so foolish an adventure. Brander bought a controlling interest in a California fire insurance company which failed a year or so later and he disappeared from public view. The bank's capital and surplus were gone, and James G. Fair, the third and only other living member of the bonanza firm, who had withdrawn from the concern several years before, put $1,000,000 into the bank to keep its doors open, taking the presidency until his loan was returned. After an ineffectual attempt to reorganize the bank under J. F. Houghton as president and N. K. Masten as cashier, the concern was turned over to Isaias W. Hellman, of Los Angeles, who placed the stock among his friends and raised a new capital; since then it has conducted a large and successful business. The loss by this wheat deal was about $16,000,000. It broke Flood's heart and he died not long after.

The climate and soil of California favor farming on a large scale and California ingenuity was brought to bear on the invention of labor-saving implements. In the great valleys there is no sod, or shrub, or stone to obstruct the farmer, but the soil is light, the surface clear, and the multiple gang plows scratch the ground at one-

third the ordinary cost of plowing; while the combined harvester, drawn by ten or twelve horses, goes through the ripe grain fields and leaves in its wake sacks of grain ready for shipment. But faulty farming methods—the taking of a "volunteer" crop, non-rotation of crops, and the like—soon impoverished the land and the average production gradually fell from sixty bushels to eleven and even as low as nine bushels to the acre; wheat raising became unprofitable and the great ranchos began to be cut up into small tracts for fruit growing, much to the advantage of the state.

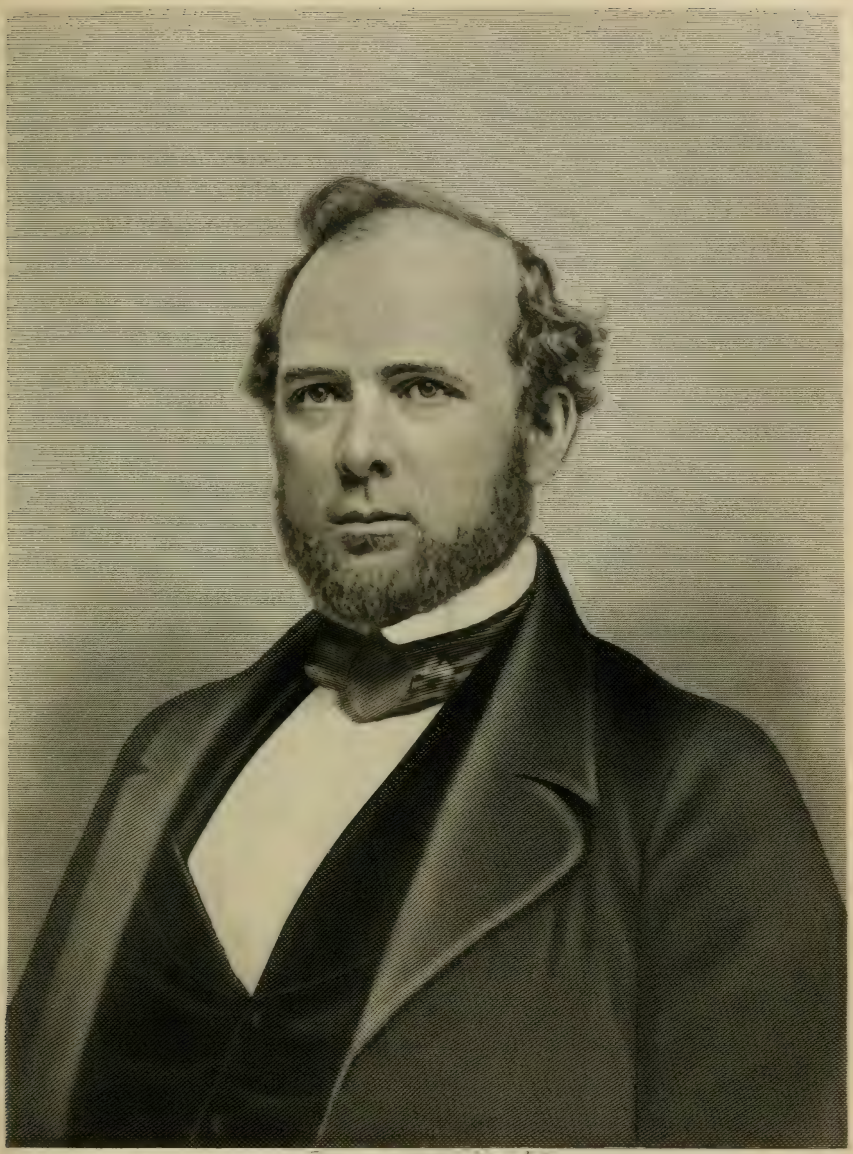
The necessities a great congregation of people suddenly thrown together in a hitherto desolate quarter of the globe were pressing, particularly those upon whom devolved the receiving, handling, and distribution of the enormous quantities of merchandise, and goods of every description that poured into California from all parts of the world. So sudden was the development of commerce that the resources of the port of San Francisco were greatly overtaxed. There were no wharves, no warehouses, and the seven hundred ships that came in 1849 were loaded with everything conceivable to meet the needs of the people and to supply implements for the novel enterprise upon which they had entered. The utmost exertions of consignees failed in many instances to provide quick discharge of ships and proper shelter for the goods. Warehouses were hastily thrown up but many cargoes were warehoused on the open beach until they could be forwarded to the mines. With the market overstocked with merchandise, prices fell, and many cargoes were sold at auction at a ruinous sacrifice, to meet the

ANDREW J. POPE

Born at East Machias, Maine, February 6, 1820; died at San Francisco, California, December 18, 1878; came to California December 28, 1849, as representative of the lumber firms of William Pope and Sons of Boston and S. W. Pope and Company of East Machias, and bringing with him a shipment of lumber which he disposed of at large profit. He soon engaged in business on his own account and bought lands which became immensely valuable. Later on he entered into business relations with his brother-in-law William C. Talbot, forming the firm of Pope and Talbot which grew to be a large exporter of lumber to domestic and foreign ports. Mr. Pope accumulated a large fortune, took part in many enterprises and was one of the organizers of the Bank of California. He was noted for his benevolence and public spirit.

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The discovery of gold in California caused people suddenly [illegible] to the remotest quarter of the globe. Adventurers, pilgrims of every clime, upon whom developed the [illegible] finding, and distribution of the marvelous quantities of [illegible] and goods of every description [illegible] from all parts [illegible] development [illegible] of the port of [illegible] were greatly overtaxed. Lighters were [illegible] warehouses, and the seven hundred ships that came in 1849 were loaded with everything necessary to meet the needs of the people and to supply implements for the novel enterprise upon which they had entered. The utmost exertions of consignees failed in many instances to provide quick discharge of ships and proper shelter for the goods. Warehouses were hastily thrown up but many cargoes were warehoused on the open beach until they could be forwarded to the mines. With the market overstocked with merchandise, prices fell, and many cargoes were sold at auction at a ruinous sacrifice, to meet the



A. J. Dallas



ship-master's demand for freight money, and other cargoes were left to rot in the ships. With the American genius for organization, a Chamber of Commerce was formed in 1850 to provide machinery for settling disputes, arranging for payment of foreign bills of lading, and all the multitudinous details of a great shipping port. The Chamber of Commerce of San Francisco was, we understand, the second body of the kind organized in the United States, the first being in Baltimore. The Chamber has ever been active in all matters pertaining to the improving, lighting, and defense of the port, and it is today, after sixty-four years' service, one of the most efficient and powerful commercial bodies in the United States and has an active membership of more than twenty-seven hundred.

During the first few years following the discovery of gold, California imported almost everything used—even lumber, although American enterprise soon changed this condition, and the value of the redwood, the sugar-pine of the high sierra, the red fir, and the yellow pine were recognized, and such great lumber firms and groups as Hanson and Company, A. M. Simpson, Edwards Williams, J. G. Jackson, Pope and Talbot, Renton, Holmes and Company, and the Hoopers became great manufacturers and exporters of forest products. Chile was the chief source of supply for flour, the Hawaiian Islands for sugar and potatoes, China for rice and tea, and Mexico and the Latin republics to the south furnished coffee, tobacco, etc. Up to 1860 California exports consisted largely of treasure but after that year the products of the soil came rapidly to the front and took the lead, while

the export of gold and silver gradually declined until beyond the shipment of a few millions of silver to China and Japan it has ceased entirely. The exports are greatly in excess of the imports today and the custom house figures show the exports by sea for 1913 to be $122,485,435, to which must be added $70,000,000 for shipments by rail, making a total of $192,485,435 of fruits, vegetables, wines and brandies. The imports for the same period were $62,650,298, leaving a balance in favor of California of $129,835,137.

The total value of California's production for 1913, including manufactures, was $1,110,000,000, and the assessed valuation of the real and personal property of the state on the first of March, 1914, was $3,232,646,152. The assessment is levied on a basis of two-thirds value which would make an actual value of $4,309,881,536.

It is reported, at this present writing, October 31, 1914, that California has shipped to New York, via the Panama Canal, during the month of October, products amounting to over $5,000,000, consisting mainly of canned and dried fruits, salmon, barley, beans, wine, and lumber.

Under the Spanish and Mexican rule, goods and merchandise for the interior were carried by pack train; a *carga*—load for a mule—was 275 pounds. Forty-five mules constituted a pack train under command of a *cargador*, or pack master, assisted by a number of muleteros. The Americans used the interior water ways wherever practicable, constructed roads and built great freight wagons which were drawn by many horses or mules. In crossing the Sierra Nevada the wagons used were made very large and strong; a smaller wagon



WILLIAM CHALONER TALBOT

Born at East Machias, Maine, February 28, 1816; died at Astoria, Oregon, August 6, 1881; began business with his father and brother under the firm name of Peter Talbot and Sons engaged in lumber and shipping; came to California March 12, 1850, in schooner *Oriental* with a cargo of lumber, and for a time engaged in coast trade, South America and Hawaiian Islands under the firm name of W. C. Talbot & Co. Established a saw mill at Port Gamble, Washington, and with his brother-in-law, Andrew J. Pope, formed the firm of Pope and Talbot.



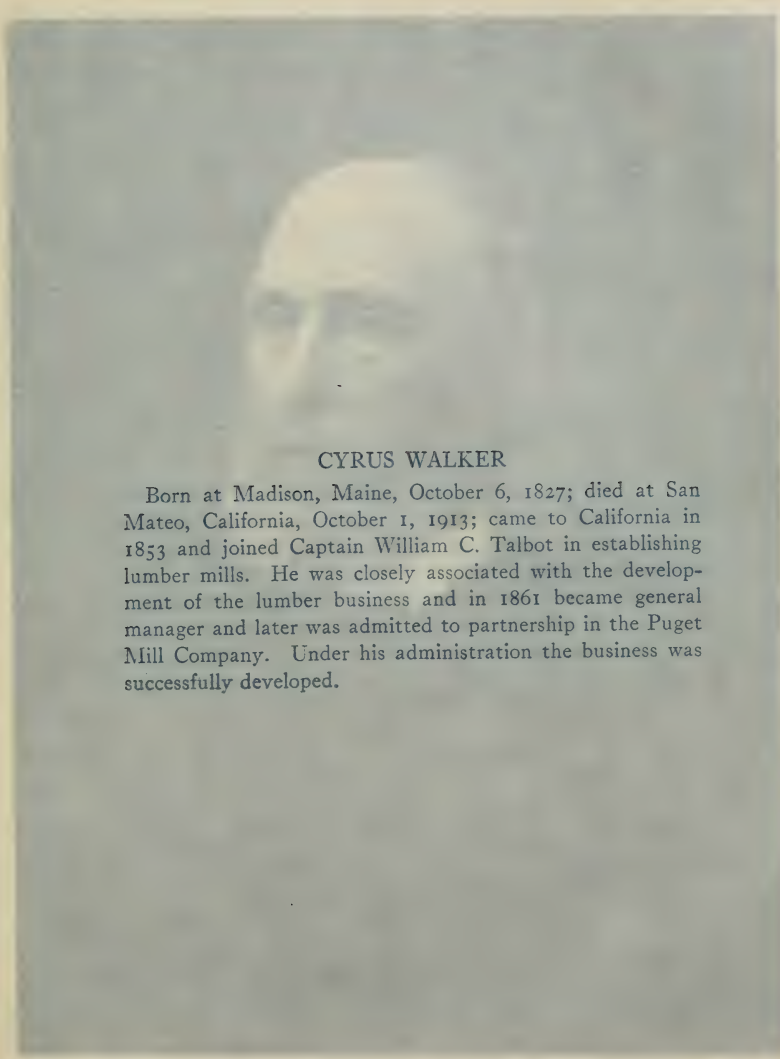
W. C. Talbot



called a "back action," and sometimes two of them, was attached to the first and to this train was usually harnessed sixteen horses or mules—frequently using both horses and mules in the same team—and the outfit would carry from ten to fifteen tons of freight. A freight team is driven by a single rein attached to the inside bit of the off leader and the driver rides the off wheel horse; the brake strap or rope passes across his right leg and is attached to the pommel of his saddle; his left hand holds the rein while his right hand manages the brake strap and slung to his wrist is his whip, a powerful quirt or bull whip, which he cracks with the sound of a musket shot. The leading span is turned to right or left by a pull or a jerk on the rein. These drivers are most skilful in the management of their teams and as expert in their way as the stage drivers in theirs. Bells are usually attached to the horses and their music in the mountains is heard afar and gives notice of the approach of the freighter. On the opening of the Bodie mines in the early seventies a "fast freight" line was put on the road from Carson City, Nevada, to Bodie, California, about one hundred miles to the southeast. This was, perhaps, the finest freight line ever established by wagon road. The leading wagon was very large and there were three "back actions," all built in the best fashion and unusually large. Attached to them were twenty horses and mules equipped with the finest harness, and from the hames of every other pair in the team high wooden projections carried lanterns: for the team traveled night and day without stop except to change horses or to load or unload freight. Each team carried a crew of four me n

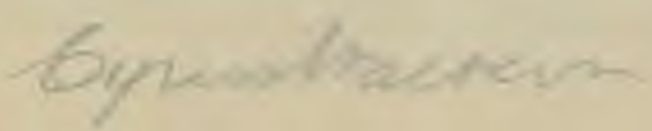
the driver mounted on the off wheeler, one man at the brakes, and one on either side of the team to encourage the horses and keep them up to the rate of speed desired. The pockets of the runners were filled with small stones and any horse or mule soldiering on the job felt the sharp pelt of a stone awakening him to a realizing sense of duty. Each outfit cost from $5,000 to $7,000, carried from fifteen to twenty tons of freight, and traveled at a fast walk, making from three to four miles an hour. They left Carson every other day and it was a great sight to see one of these magnificent trains start out about seven o'clock in the evening with lamps alight and runners shouting to the horses.

The railroads put these picturesque freighters out of business and the jerk-rein artist followed his confrére, the stage driver, into unmerited obscurity. After completing the road to Ogden the Central Pacific group of railroad builders began extending their operations in conformity with their adopted plan to monopolize transportation in California. In 1865 the Southern Pacific railroad company was organized ostensibly to build a road from the bay of San Francisco through the coast counties to San Diego, thence to the eastern boundary of the state to connect with a road from the Mississippi river. In July, 1866, congress granted a charter to the Atlantic and Pacific railroad company to build a road from Springfield, Missouri, to Albuquerque, New Mexico, thence by the thirty-fifth parallel to the Pacific, giving the same amount of land per mile as the grant to the Central Pacific, and authorizing it to connect with the Southern Pacific railroad of California

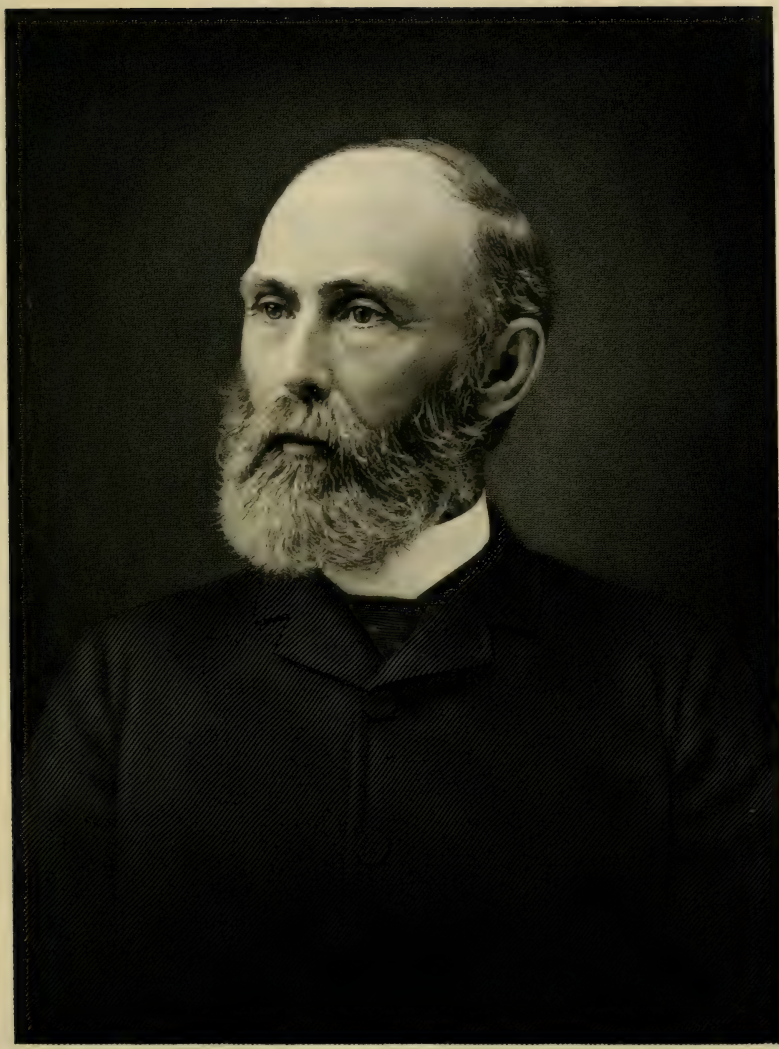


CYRUS WALKER

Born at Madison, Maine, October 6, 1827; died at San Mateo, California, October 1, 1913; came to California in 1853 and joined Captain William C. Talbot in establishing lumber mills. He was closely associated with the development of the lumber business and in 1861 became general manager and later was admitted to partnership in the Puget Mill Company. Under his administration the business was successfully developed.



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Cyrus Walker



at such point near the eastern boundary of that state as the two companies might determine, and the act provided that the Southern Pacific railroad company should receive the same amount of land per mile as that given to the Atlantic and Pacific. The charter was given the Southern Pacific on the supposition that it would open up the coast counties containing some of the richest agricultural lands in the state, and furnish rapid transportation for the semi-tropical fruits of southern California; but in 1867 it filed a map with the secretary of the interior changing its route from the coast counties through the Pacheco pass into the valley of the San Joaquin and thence to the Colorado river near Fort Mojave. On objection being made the land grant was canceled, but in 1870 it was restored to the company to conform to the line shown by the map of 1867.* The company purchased the San Francisco and the San Jose line and extended it to Tres Pinos in San Benito county, where it now stops. The company then concluded to build its road up the Salinas valley, but it was not until 1901 that its line was joined to that of the San Joaquin valley. Meanwhile the Central Pacific extended its line south to Visalia and north to Portland, and it began to be rumored that the Central was to be consolidated with the Southern Pacific, but this was stoutly denied by both companies. From the east two

*The change of route and the regranting of lands to the company were the cause of serious riots in Tulare county between the original settlers and the purchasers of the railroad title, in which a number of houses were burned and several men killed. The settlers offered to pay the railroad company $2.50 per acre for the land but denied the company's right to the canals, ditches, etc., which they had constructed, or to require payment from them therefor. The United States circuit court decided that the grant to the railroad was valid and the marshal evicted those settlers who were on railroad land. The affair created great excitement and the railroad company was severely blamed for its course in the matter.

lines were approaching California: the Atlantic and Pacific, already mentioned, and the Texas Pacific, building from New Orleans with the avowed intention of reaching San Diego. The Southern Pacific directors determined that neither of these lines should enter California. From Goshen where it took up the line of the Central Pacific it pushed with all speed to Yuma on the Colorado to head off the Texas Pacific and thence on, across Arizona and New Mexico to El Paso on the Rio Grande. The Texas Pacific, involved in difficulties in 1873, was unable to raise money to complete its line to California and applied to congress for a subsidy. In this they were defeated through the efforts of Huntington, who offered to build east of the Colorado without even a land grant, and the Southern Pacific met the Texas Pacific at Sierra Blanca, a few miles east of El Paso. The road was opened to New Orleans in 1883 through its connection with the Texas and New Orleans railroad at Houston, Texas. The Atlantic and Pacific, which was also crippled by the panic of 1873, formed a combination with the Atchison, Topeka, and Santa Fé company and built to the Colorado river at the Needles, intending to carry their road thence to Los Angeles and to San Francisco. They were stopped, however, at the Colorado by the Southern Pacific which had built from Mojave, on their San Joaquin valley line, to the Needles, 242 miles across the Mojave desert. This line was later leased to the Santa Fé line—under a proper traffic agreement—and said company was also permitted to purchase the California Southern railroad, a road from San Diego to Los Angeles, thence to San Bernardino, and to Barstow,

on the Mojave-Needles line. The Santa Fé company later obtained an entrance to San Francisco by purchasing the San Francisco and San Joaquin valley road —San Francisco to Bakersfield—a road organized in 1895 with the purpose of obtaining for the people relief from the intolerable oppression of the Southern Pacific. The stock of this road had been placed largely among the farmers of the San Joaquin valley and the trust agreement under which the road was to be built and operated contained the provision that the property was "not to be leased or consolidated with any company which may own, control, manage, or operate any of the roads now existing in the San Joaquin valley, and the trustees shall not, nor shall their successors, have any power as shareholders to assent to any such control or lease, or in any way to put the said road under the same management as that of any other railroad now existing in the San Joaquin valley." The simple minded farmers having on April 5, 1895, given their assent to this agreement, the trustees promptly sold the road to the Santa Fé, which company, not owning or controlling any road in the San Joaquin valley, was clearly outside the prohibition of the trust agreement. Thus ended the hopes for an opposition road. It was said, in explanation, that the road could not be made to pay, but we do not see how that could have been determined at that time as the road was virtually sold before construction was begun. The chief subscriber, Claus Spreckels, a sugar manufacturer of many millions capital, thought it a good time to sell, and sold it was. In 1884 the Southern Pacific company was incorporated by special charter from the state of Kentucky and this company

operates by reason of stock ownership or under lease all the various railroad and steamship lines owned by the Central Pacific and Southern Pacific railroad companies, or operated by them, thus bringing all under one head and one control. The little group of Sacramento merchants had become great and when one of them traveled his journey was like a royal progress. So powerful and arrogant did they become that they disputed the authority of and denied their obligations to the United States government, on the theory that as the benefit the government derived from the building of the first overland road had been so great, in equity they owed it nothing; besides, for the seventeen years the roads had been running, the sum credited the Union and Central Pacific roads by the government for freight, supplies, mails, munitions of war, troops, and passengers amounted to $21,000,000, while the charges on the same by team and coach would have been $160,000,000—a saving to the government therefore, of $139,000,000, which after deducting amount of bonds and interest, would leave a balance in favor of the railroads of $52,000,000. They claimed that the subsidies were granted on the understanding that they should build a road to be owned and managed by themselves, for the individual profit of the stockholders, and that there was nothing in the language of the statutes that would fairly admit of any other construction. They refused to pay their just proportion of taxes in the state, and they used their power to control elections and secure such men for public office as would be pliable. They treated the people with contempt, refused to act as common carriers, discriminated in freights, and man-

aged to extract from the farmers and merchants all that the traffic would bear;* and when the citizens complained of excessive charges, it was pointed out to them that they were having their goods and themselves carried in one-fourth the time formerly consumed and at one-fourth the expense, and that their property was greatly enhanced in value. Through ownership of a majority of the capital stock of the Pacific Mail steamship company they were enabled to make such rates on water freights as would not interfere with their railroad tariff, and by an arrangement with owners in the east they were enabled to prevent any serious competition on the part of sailing ships. It is said that so high did the rates become that shippers could save four dollars a ton on freights from New York to San Francisco by shipping their goods to Europe and having them re-shipped thence to San Francisco. This practice the railroad complained of as an evasion of the coastwise shipping act and it had to be stopped. The sinister influence of the railroad was over all. It controlled judges; it owned legislatures; it invaded the halls of congress and sought to undermine the very foundations of government and society. In California it was supreme; and as the vapor which the fisherman released from the jar grew and overspread the heavens and became an Afrit of most appalling proportions and threatening aspect, so this creature, generated and nourished by the people, grew and became so powerful that it pervaded all,

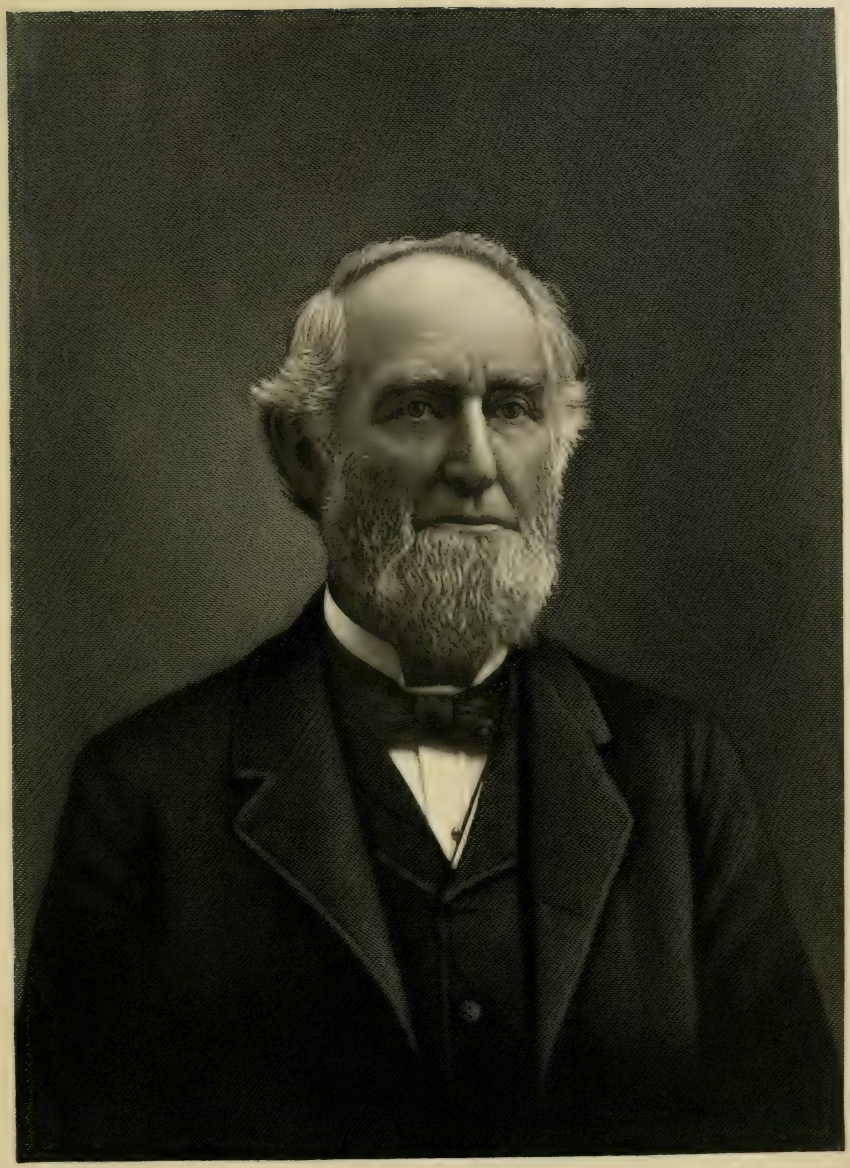
*The charge on a car of freight from Chicago to San Francisco was $300; from Chicago to Winnemucca it was $700, though Winnemucca was 327 miles east of San Francisco.

crushed all opposition, and laid a heavy hand upon the industry of the state. But relief was at hand and the Interstate Commerce Commission, appointed in 1887 under an act of congress, lent a sympathetic ear to the cry that went up from the farmers, manufacturers, and merchants. Retribution, also was threatened. The builders of the railroads had become greatly extended. The length of their whole system of roads aggregated more than 9,000 miles; they owned or controlled more than forty railroad corporations, besides coal mines, express companies, street railways, hotels and townsites. Over all their property was an enormous accumulation of indebtedness, and in addition, they had for years been the largest borrowers in California at gradually increasing rates of interest, and were now required by the banks to give their personal guarantees to the paper in addition to their collaterals. They were approaching one of those recurring periods of liquidation called panics. They were confronted with a very real peril in the maturing of the government's claim of $55,000,000 for construction aid bonds, and they found themselves in 1893 on very thin ice. They were in need of money and in large amounts for the payment of bond interest and other necessities. Money had flowed in upon them so fast and in such great quantities that they had not realized the danger of too great expansion. The talk of abandoning the Central Pacific to the government, which was somewhat indulged in, was futile, as such a course meant financial death. Their wealth was largely in their own securities and anything that affected the one affected the other. A friend was found, oversea, who would accept their securities and lend

ASA M. SIMPSON

Born at Brunswick, Maine, February 20, 1825; died at San Francisco, January 10, 1915; came to California early in 1850 in the ship *Birmingham* with a cargo of lumber which he and some fellow townsmen had loaded on a venture, and which was sold at a large profit. Captain Simpson had been brought up in the ship-building business, in which both his father and his grandfather had been engaged, but the success of his trading enterprise caused him to enter the lumber business and this he followed the rest of his life. In 1850 he established in San Francisco the Simpson Lumber Company, which is still doing business. His first yard was at Market and Beale streets, and he shortly after extended his business to Sacramento and Stockton. In 1852 he built the first steam saw mill at Astoria, Oregon, and a few years later built mills at Umpqua and at North Bend in the same state. At the latter place he became interested in a shipyard from which over sixty sailing vessels have been launched. He also built mills at Soquel, Crescent City, and Port Oxford, California, and at Knappton, Hoquiam, and South Bend in Washington. He was also largely interested in shipping and at one time, besides the operation of ten lumber mills, he owned and operated fifty sailing vessels, shipping large quantities of lumber and coal to Pacific ports. As a citizen and a business man Captain Simpson's standing was of the highest and he has ever been considered a representative man of the lumber and shipping interests.

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A. M. Simpson



them money. The crisis was passed, and the government, not disposed to drastic measures, consented to a liquidation of its claim extending over a period of ten years.

With the death of Collis P. Huntington in 1900 the last of the group of railroad builders passed away and the great system came into the hands of Edward H. Harriman, a constructive railroad manager of great ability, who at once proceeded to put the physical properties in first class condition and to cultivate the friendship of the producers and merchants of California. In 1909 the Western Pacific Railway company, the second company in California to bear that name, opened its line for business. This is a transcontinental line from San Francisco to Salt Lake City, crossing the Sierra Nevada by the Beckwith pass and connecting at Salt Lake City with the Denver and Rio Grande road.

During the early gold period the foreign and Atlantic coast freight was mainly carried by sailing ships. The Pacific Mail steamers began to arrive early in 1849 and by 1853 eighteen ocean steamers engaged in the California trade—most of them being coasters. In 1852 the Nicaragua line opened with four steamers and continued for several years until cut off by the war of the filibusters. In 1861 Holladay and Flint established a regular service between San Francisco and Mexican ports, and in 1867 the Pacific Mail opened the China trade with the side-wheeler *Colorado*, 3,728 tons sailing from San Francisco for Hong Kong January 1st with one thousand barrels of flour and $560,000 in specie. The *Colorado* was followed by the *Great Republic* and

the *China*. In 1874 the Occidental and Oriental Steamship company was organized by the Central Pacific railroad company and four steamers of 4,350 tons each were put on the China route. This line was discontinued in 1908. In 1899 the Toyo Kisen Kaisha, a Japanese line, put on three steamers, each of 6,000 gross tonnage, to run between Hong Kong, Yokohama, and San Francisco on joint schedule with the Pacific Mail, and these ships were followed in 1908–11 by the *Tenyo Maru*, *Chiyo Maru* and *Shinyo Maru*, ships of 13,400 gross tonnage each. The Pacific Mail is now operating on its trans-Pacific line the *Mongolia* and the *Manchuria* each 13,639 gross tonnage, the *Korea* 11,279 tons, *Siberia* 11,284 tons, and *China*, *Persia*, *and Nile*, from 4,356 to 5,888 tons. On its Panama line it has eight steamships amounting to 23,820 gross tonnage. The Dollar line has five steamships on the trans-Pacific line of 4,079, 3,679, 3,582, 2,715, and 2,006 net tonnage.

Large and beautiful steamers connect San Francisco with Honolulu, the South Sea Islands, New Zealand, and Australia; with the cities of the north and the coasts of Alaska, and with the southern ports of California and Mexico. The Kosmos line connects San Francisco with Hamburg, via the Straits of Magellan, touching at various ports of Mexico and South America, with a freight movement of 100,000 tons each way.

The total tonnage movement of the port of San Francisco for the year 1913 was:

	ARRIVALS STEAM TONS	SAIL TONS	TOTAL
Foreign ports	2,254,383	427,835	2,682,218
Coastwise	4,234,690	177,905	4,412,595
	6,489,073	605,740	7,094,813

	DEPARTURES STEAM TONS	SAIL TONS	TOTAL
Foreign ports	2,119,491	107,256	2,226,747
Coastwise	4,305,329	500,079	4,805,408
	6,424,820	607,335	7,032,155

On the bay of San Francisco and the waters of the San Joaquin and Sacramento are large and well appointed steamboats carrying passengers and freight.

The opening of the Panama Canal will bring to California by direct shipment from Naples, Antwerp, and Hamburg agricultural laborers of Italy, Belgium, and the Rhine provinces who will find in California the climate and soil suited to the industries to which they are trained and whose coming will add greatly to the material advantage of the state.

CHAPTER X.

THE COLORADO DESERT

THE Colorado Desert lies in the southeastern corner of Colorado in what was formerly San Diego county—now, Imperial—and extends into Riverside county. Its extreme length, in California, is about one hundred and twenty miles and it varies in width from twenty miles at Palm Springs to eighty-five at Holtville. Below the International boundary line it has an area about one-half that of the California portion. The area in California is (roughly) about 6,000 square miles. A great deal of this land is below sea level—the lowest point (Salton Sea) being 265 feet below the level of the sea. This depression was formerly the head of the Gulf of California, and after the Colorado river built up its delta from the Arizona mesa to the Cocopa mountains, this head of the gulf became a lake over one hundred miles long and from twenty to eighty miles wide. A well preserved water line on its mountain wall shows that the surface of the lake once stood at forty feet above sea level. The Indians of the Toro reservation have legends concerning this lake: that it contained many fish and that it gradually disappeared many hundred years ago—perhaps a thousand—leaving the dry floor of the desert as we know it. In the northerly part of this desert is a depression, the lowest portion of the desert, usually dry, called the Salton Sea. Several times during the nineteenth century an unusual freshet and overflow of the Colorado river has sent the water through the arroyos of New and Alamo rivers into the Salton Sea.

The Green river, rising in the Wind River mountains of Wyoming, and the Grand river, rising in the Continental Divide in Colorado, join in southeastern Utah

to form the Colorado. It is the silt brought down by this river that has formed the delta and built up the Colorado desert from what was once the bottom of the gulf. The river has also built up its channel until this channel is higher than the adjacent land on either side. The flow of the river varies greatly, and the period of freshet is in June. Since 1878 the Southern Pacific company has made observations on its bridge at Yuma and the lowest discharge was 2,400 cubic feet per second, in January, 1894, and the highest was 149,500 cubic feet per second on June 24, 1909. The mean monthly discharge for a period of eighteen years—1894–1911—was:

	second feet	acre feet monthly
*Lowest, November	6,660	395,900
Highest, June	50,500	3,000,000

The Colorado river carries at all times large quantities of silt, the quantity and character of which depend on the velocity of the flow. When the volume of water is less its velocity decreases, the amount of silt carried is less, and is deposited on the bottom of the river which correspondingly rises. When the flood comes down, the bed of the river is scoured out and sometimes lowered as much as thirty feet. With returning easy water the river resumes its deposits of silt on its bottom which soon regains its former position and the river continues extending its delta into the gulf of California. It is the constantly recurring flood and overflow that

*On his return from his first journey to Monterey Anza and his escort crossed the river on a raft, May 10, 1774, propelled and safeguarded by a swarm of Yumas, swimming. On his second journey, with the expedition, he forded the river November 30, 1775, without difficulty. *Vol. I, p. 337, 358.*



THE IMPERIAL VALLEY OF CALIFORNIA

Relief map of the United States Reclamation Service published in National Geographic Magazine for January, 1907.

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	second feet	acre feet monthly
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

The Colorado river carries at its [illegible] quantities of silt, the quantity and character of which depend on the velocity of the flow. When the volume of water is less its velocity decreases, the amount of silt carried is less, and is deposited on the bottom of the river which correspondingly rises. When the flood comes down, the bed of the river is scoured out and sometimes lowered as much as thirty feet. With returning easy water the river resumes its deposits of silt on its bottom which soon regains its former position and the river continues extending its delta into the gulf of California. It is the constantly recurring flood and overflow that

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Indio
Banning
Beaumont
Palm Springs
Whitewater
Mission Creek
Banning
Whitewater
Garnet
Edom Hill
Thousand Palms
Indio
Coachella
Valley
Coachella
Canal
Thermal
Oasis
Mecca
Salton Sea
Salton
Sea
Beach
Flowing Well
Mammoth
IMPERIAL
Brawley
VALLEY
Imperial
Holtville
Silsbee
Westmorland
Calexico
Mexicali
Laguna Dam
Yuma
Gila Gravity
YUMA PROJECT
YUMA MESA
COLORADO RIVER
Arizona
Mexico
LOWER COLORADO RIVER
PROVING IRRIGABLE LANDS
UNITED STATES & MEXICO

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has built up the desert and the delta. A careful examination of the silt contents of the river at Yuma for a period of six months showed the ratio of dry material to weight of water to be 1 to 277. The corresponding ratio in the Mississippi is 1 to 1,500; the Nile, 1 to 1,900; the Danube, 1 to 3,060. A series of studies of the relations of sediment to water resulted in the estimate that 148,084,000 tons of solid matter were carried by Yuma each year, sufficient to make approximately 71,800 acre-feet of dry alluvial soil. On the banks and river bottom of the Colorado, and throughout its flood plain is such a dense and varied growth of mezquite, screw-bean, willow, arrow-weed, wild hemp, and carrizo, as to form in some cases a nearly impenetrable jungle. It was this vegetation which caused Anza such trouble with his cattle.

The Colorado river comes out of its cañon through the Purple Hills, flows southeasterly about fifteen miles to Yuma, thence nearly due west about five miles to Pilot Knob (Cerro de San Pablo), a small butte lying just above the International boundary line, thence almost due south it flows eighty miles to the gulf of California.* On the left or eastern bank of the river is a high mesa forming the eastern boundary of the plain of the river, and reaching nearly to its mouth, while from the boundary line the river runs on a ridge of its own making confined only by banks of soft alluvial, seldom more that ten or twelve feet high. During high water these banks are overflowed at many points, the water running through channels made in previous years. In severe floods the overflow is general, only

*That is, of course, the old channel—not its present one.

checked by the dense, matted growth. The principal inundation channels are the Alamo, New, Padrones,* Abejas, and Pescadero rivers. The Alamo, or Salton river, is the most northerly of these "rivers." It extends from the Colorado, a little below the boundary line, and pursues a south and southwesterly course following the southern end of the sand-hills that extend into Lower California and a high sand mesa to the west of them, thence northerly it crosses the boundary at about longitude 115° 20′ and continues on that course to Salton Sea at latitude (about) 33° 10′. It is a well defined channel and in its course the river spreads out in broad swamps known locally as lagunas. These were the wells (Pozos) where Anza encamped on his memorable journey of 1774. The New river heads from Volcano lake, the largest of these lagunas, about eighteen miles below the boundary line and the same distance from the river. It is fed by the Padrones and Abejas rivers. It is on the summit of a low, flat divide between the Salton Sea on the north and the gulf on the south. Its bed is about twenty-two feet above sea level and its discharge is both north and south. Its high water stage is about thirty-five feet above sea level and at such times it extends about ten miles northwest and southeast and is six miles wide. The New river runs in a northerly direction until it reaches the Salton Sea. Volcano lake sends its discharge north by New river to Salton Sea and south by a channel called Hardy's Colorado to the gulf; but since 1908 a line of levees has prevented any water from passing into New river and thence into Salton Sea and the

*Sometimes called Paredones.

lake's waters, therefore, go to the gulf through Hardy's Colorado, which, now that it is charged with the burden of the Colorado is an important channel averaging about five hundred feet wide and twenty feet deep at maximum stages. This once despised slough takes its name from Lieutenant R. W. H. Hardy, R. N., who sailed into it in 1826 with a small schooner. The Padrones runs in a southwesterly direction from the Colorado to the northeastern corner of Volcano lake where it discharges its flood. The Abejas drains the overflow from the region south of the Padrones, and running southwesterly empties into Volcano lake. Since the summer flood of 1908 this river has been carrying into Volcano lake the entire low-water flow of the Colorado and the greater part of the flood flow, to be discharged into the gulf through Hardy's Colorado. The Pescadero drains the region below the Abejas and dividing into a network of channels empties into Hardy's Colorado and thence to the gulf. Throughout the delta innumerable sloughs connect the various rivers, and these as well as the rivers are but dry arroyos during the low water season.

The Colorado desert was first crossed by white men in 1774 when Juan Bautista de Anza with a small expedition of thirty-four men with pack animals, crossed the Colorado river and on February 13th made his first plunge into the desert only to be thrown back six days later, narrowly escaping a total loss of his expedition. He had no guides and knew nothing of the location of the water holes. The Indians of the Colorado river would not venture into the desert for fear of enemies who frequented its western border.

They could only give him general directions where to find water and as neither understood the language of the other, clearness of direction was difficult. To the west of the junction of the Gila with the Colorado, bordering the easterly side of the desert of which they form a serious part, lie a range of sand-hills reaching from about thirty miles north of the International boundary and extending in a southeasterly direction to some ten or twelve miles below it—varying in breadth from ten to thirty miles. These hills are deadly and to become entangled among them is to be lost. Anza in his search for water and feed for the animals managed to get among the outlying ones and failing to find either water or grass made a retreat to the river. After refreshing his men and beasts he tried again passing well down the plain of the river and after nine days of travel reached the junction of the San Felipe and Carrizo rivers and the end of his desert passage. It must not be supposed that when one speaks of "rivers" one means to convey the impression of rivers of flowing water—such for instance as the Connecticut, or the Sacramento,—one does not; one means rivers of the desert, and of a California desert. They may have water in their courses or they may not—generally not. The rivers of southern California, someone has said, flow bottom up—meaning that the flow is underground. The San Felipe and the Carrizo come down from the San Jacinto mountains and joining at the edge of the desert, flow into the Salton Sea—when they flow anywhere. It is because of the sand-hills and a mesa of about forty feet in height extending westerly therefrom for about fifteen miles that the Yuma trail, as the road

from San Diego to Yuma, founded by Anza, came to be called, makes a bend into Lower California. This was the course of travel before the building of the Southern Pacific railroad. Over this dread desert, following Anza's route, came in 1846, General Kearny with the "Army of the West" for the conquest of California. Kearny crossed the desert to Carrizo river in three and a half days of travel (ninety miles) with great suffering to both man and beast and losing a number of animals. The diary of Lieutenant W. H. Emory of the command says at the beginning of the fourth day in the desert (November 28th): "The call to saddle was sounded, and we silently groped our way in the dark. The stoutest animals now began to stagger, and when day dawned, scarcely a man was seen mounted."* Quite a number of the gold immigration of 1849 came by this route and their sufferings were dreadful. Bayard Taylor writes of those taken on board his steamer at San Diego: "The immigrants by the Gila route gave a terrible account of the crossing of the great desert lying west of the Colorado. They describe this region as scorching and sterile—a country of burning salt plains and shifting hills of sand, whose only signs of human visitation are the bones of animals and men scattered along the trails that cross it. The corpses of several emigrants, out of companies who passed before them, lay half buried in the sand, and the hot air was made stifling by the effluvia that rose from the dried carcasses of hundreds of mules. There, if a man faltered he was gone; no one could stop to

*W. H. Emory, *A Military Reconnoissance, Fort Leavenworth to San Diego.* Ex. Doc. 41, 30th Cong. 1st Ses.

lend him a hand without a likelihood of sharing his fate."* John Russell Bartlett, United States Boundary Commisioner (1852), with an escort of fifty men, all mounted, with pack animals and wagons, crossed the desert from Carrizo river to the Colorado in June, taking six days for the journey. He writes: "As it is too hot to march at all during the day we make all our journeys at night. * * * June 6th. Reached Alamo Mucho on the desert at 7 o'clock this morning after a journey of twelve hours without a moment's rest in which we had made forty-five miles. * * * The desert here is a vast open plain, extending as far as the eye can reach on every side, except on the southwest, where a chain of mountains appears some thirty or forty miles distant.† The undulations are few and slight. * * * June 7th. We passed several wagons in good condition which had been abandoned by their owners * * * the mules of which had perished. The whitened bones of animals marked the road in many places, terrors to passing emigrants. * * * I rode a mule all this night, and found it no easy matter to retain my seat in the saddle, * * * and some of the party were so overcome with drowsiness that, fastening their mules to bushes, or to their legs, they lay down on the desert and stole a few minutes' sleep."‡

These extracts convey a realizing sense of what the Colorado desert was. Its temperature in summer ranges from 92° to 115°, and in winter it is sometimes as low as 22° F. The rainfall is less than three inches

*Bayard Taylor, *El Dorado, p. 47.*
†Cocopa mountains.
‡John Russell Bartlett, *Personal Narratives of Explorations Incidents, Vol. II, p. 130-147.*

per annum and in some years no rain at all falls. On the southeast border of Salton Sea lies a group of mud volcanoes six miles south of Imperial Junction, and about sixty miles to the south of these, on the western shore of Volcano lake, is another and much larger group. From these mounds or cones of mud gases containing sulphurous vapor are discharged, and round about the mounds are pools of hot mud or water, the latter often so acid that shoes or wearing apparel moistened with it are destroyed.

In 1891 and 1892 the Colorado River Irrigation company was formed for the purpose of carrying to and distributing upon the Colorado desert water taken from the river, and Mr. C. R. Rockwood was placed in charge of the engineering work. Under Mr. Rockwood's direction the entire problem of irrigating the lands of the Colorado river delta was worked out, but the financial stringency of 1893 put an end to the operations of the company and Mr. Rockwell found himself in possession of the plans, records, and data of the Colorado River Irrigation company in lieu of salary. Thoroughly convinced of the possibilities of the project, Mr. Rockwood for seven years endeavored to finance the work, both in the United States and abroad. On April 26, 1896, the California Development company was incorporated under the laws of New Jersey. To take the water from the Colorado river and carry it by a canal lying wholly on American soil to those areas of the Colorado desert, susceptible of irrigation by gravity, north of the boundary line, was impracticable by reason of the great cost of carrying the conduit across the sand-hills. It was therefore

necessary to acquire land and rights of way in that portion of the Colorado delta lying in Lower California. This was done through a Mexican company, the capital stock of which was owned by the California Development company. Water filings were made on behalf of the company on the right bank of the Colorado river about 3,000 feet north of the boundary line, appropriating 10,000 cubic feet per second of the flow for the irrigation of American lands in the Colorado desert. The company also obtained options on land along the river north of the boundary, including the rocky point of Pilot Knob, and the Mexican company acquired an option on 10,000 acres in Mexico, immediately south of the boundary, and the bed of the Alamo river which extended beyond this tract. Easements were obtained for rights of way in the Colorado desert north of the boundary line by application to the secretary of the interior accompanied by maps and descriptions of the proposed works. In March, 1900, the Imperial Land company was incorporated under the laws of California for the purpose of colonization. This company contracted to do all the advertising and colonizing and to sell all water stock on a twenty-five per cent commission and the further and exclusive privilege of town-sites. By using government land scrip the company obtained immediate ownership in fee simple of tracts of land in various parts of the valley and subdivided them into town-sites. These town-sites were covered with water stock in order to obtain water for domestic and municipal use. Thus were established the town-sites of Mexicali, in Mexico, and Calexico, Heber, Imperial, and Brawley in California.

The other town-sites: El Centro, Holtville, Seeley, Dixieland, and other places were plotted and put on the market by other parties later.

On April 3, 1900, the Development company entered into a five year contract with Mr. George Chaffey of Los Angeles, a civil and mechanical engineer of wide experience in irrigation work, to construct such canals as were necessary for the purpose of taking water from the Colorado river above the boundary line to the lands of the California Development north of said boundary, the canals to have sufficient capacity to deliver 400,000 acre feet of water per annum at the point where the main canal intersects the International boundary. The construction cost of such canals should not exceed $150,000, the money for which was to be furnished by Mr. Chaffey, who was to have charge of the company's finances during the period of contract. The original plan of Mr. Rockwood contemplated taking the water from a point on the river about fourteen miles above Yuma known as The Potholes, later selected by the United States Reclamation Service as the site for the Laguna dam. Disregarding the Rockwood plan Mr. Chaffey constructed the intake just above the boundary line and running his canal in a southerly direction to the Alamo river, utilized that ancient channel to conduct the water to where it crossed the International boundary, sixty miles distant. At a place called Sharp just below the Mexican line a heading was put in and the water was led by canals over the land to be irrigated. Mutual water companies were formed to distribute the water whereby the farmer could obtain water for his land;

each share of stock representing the right to purchase water for the irrigation of one acre of land, and each certificate of stock to have written on its face a description of the land on which it is located. Each Mutual company entered into a tri-party contract with the Development company and the Mexican company, whereby the Mexican company agreed to supply water to the Mutual company on demand at definite points on the International boundary, for fifty cents per acre foot, to be used only on lands within its own district, while the Development company agreed to build the distribution system of the Mutual company and to maintain certain definite portions of the canal thereof perpetually, reserving to itself the right to develop and use the water-power that might be obtained from the waters running through the canals, including those of the Mutual company; the Mutual company to turn over all its capital stock to the Development company and to agree to locate such stock on any lands within its district on the order of the Development company. The Development company was to sell the capital stock of the various Mutual companies to the settlers, and with the proceeds build the main canal in the United States and Mexico and the distributing systems, which became the properties of the Mutual companies. All this Mr. Chaffey and his associates accomplished and between April 3, 1900, and February, 1902, he built the main canal, and more than 400 miles of distributing ditches.

The Imperial Land company decided to use the name "Imperial Valley" for the region to be covered by the

irrigating canals as sounding somewhat better than "Colorado Desert" for colonizing purposes. This name has been firmly established as covering the cultivated area of the Colorado desert, and that portion of San Diego county east of 116° 10′ is now Imperial county.

The settlement of the Imperial valley took place rapidly. On January 1, 1901, with the exception of a party of surveyors, not a single white man lived in the whole region; by January 1, 1904, 7,000 people were in the district, and on January 1, 1905, the population was between 12,000 and 14,000. A branch of the Southern Pacific railroad runs through the district and at the beginning of 1905 there were seven towns with stores, banks, etc., 780 miles of canals, about 120,000 acres of land under cultivation, and 200,000 acres covered by water stock. The rapid development of the valley overtaxed the resources of the Development company which was also confronted with other complications of a serious nature. One of these was the discovery of gross errors in the government surveys, necessitating a new survey which was authorized by an act of congress in July, 1902, but it was not until 1909 that the interior lines in the townships were completed and approved. This was particularly hard on the settlers as they could not obtain patents for their lands, making it impossible to borrow money on them. In 1902, a preliminary report issued by the United States Department of Agriculture claimed that the soil was impregnated with alkali and stating that many of the settlers were talking of planting crops "which it will be absolutely impossible to grow." This warning was repeated in a subsequent report, and

the press of California condemned the project and warned investors and settlers from the field. The engineers of the United States Reclamation Service were convinced that no diversion from the Colorado for irrigation could be permanently successful where provisions were not made for preventing the heavy silt from entering the canals. The people of the Imperial valley were urged to join in the Yuma project, a government enterprise upon which more than $3,600,000 has been expended, and a proposition was made to turn the California Development over to the Yuma project on a basis of $3,000,000 valuation for the entire property. This offer was rejected by the officers of the reclamation service and in a report to the secretary of the interior January 4, 1905, Mr. C. D. Walcott, director of the United States Geological Survey and of the Reclamation Service, said that in the present desperate situation of many of the inhabitants of the Imperial valley, it was a matter of grave doubt whether it was wise to become involved in the situation. He said: "Much of the land filed on is unsuitable for cultivation owing to the large amount of alkali and other adverse conditions of the soil. The water supply is deficient, owing to poor construction and accidents to the canal system, and although during the fall months there has been ample water, it appears that the people will not utilize it, and from best information are not planting crops to any considerable extent. Difficulties of handling the silt are very great, and if the government is to take up the project, it must make enormous expenditures at once to prevent the country lapsing into a desert condition." About this time,

people began to be concerned regarding the obstruction to navigation of the Colorado, and the right of the Development company to take water from the stream was challenged.

The effect of these adverse criticisms of soil, plant, and water rights was to destroy the company's credit and it became exceedingly difficult to procure funds to perfect and extend the plant. The excessive deposits of silt in the intakes caused much trouble; it required great and constant effort to keep them open, and with the apparatus and available funds on hand it was impossible to keep the water supply up to the demands when the river fell very low. Mr. Chaffey had severed his connection with the company in February, 1902, and Mr. Rockwood had been put in charge as chief engineer. A second intake had been made above the boundary line in 1902; one in 1904 immediately below it, and in October, 1904, Mr. Rockwood made a fourth cut in the river bank four miles below the original heading, in the endeavor to furnish to the people of the Imperial valley the water they had a right to demand.

In January, 1905, the management of the Development company approached Mr. E. H. Harriman, president of the Southern Pacific company, with a request for a loan of $200,000. which was made on the security of 6,300 shares of the Development company, the Southern Pacific company taking over the management of the property in June until such time as the loan should be repaid, with Mr. Epes Randolph of the Harriman lines as president. As soon as it was decided to cut the lower intake plans for a

controlling gate to be placed in the heading were made and sent to the city of Mexico for approval. This was not obtained until December, 1905—more than a year later. Owing to this delay and the very limited amount of money available no head-gates were placed at the intake at the time, but in October, 1904, a cut of 60 feet was made in the bank of the river and the water conveyed to the main canal and thence to the Alamo river. In February, 1905, came a heavy flood from the Gila river which caused some trouble at the intake but occasioned no alarm. While the Colorado, rising in the north, sends down its flood in May and June, the Gila, having its rise in the San Francisco and Mogollon ranges of New Mexico has its freshets in the late winter or early spring months, and had hitherto caused no trouble. The flood of February was followed by a second and then a third, causing no damage other than a heavy deposit of silt in the intake which was being removed by dredgers. The engineer, however, decided to close the intake before the high water of the summer should be upon them, as the Gila flood would furnish sufficient water for the canal by the upper intakes. Work was begun upon a dam to close the cut when a fourth flood came down and swept it out. Work was immediately begun upon another dam when a fifth flood came down and carried it away. Efforts to close the intake were continued and in May came the high water of the Colorado, which enlarged the intake from 60 to 150 feet, and in June it was found that very much more water than was needed for irrigation was flowing into the canal and was rapidly cutting the channel wider and deeper. The most heroic efforts

were made to stop the break but on June 17th it was realized that nothing effective could be done until the summer flood was past and the work was therefore suspended. As the water began to fall the banks of the intake began to cave and fall into the canal; the banks of the canal below the intake fell in and by the end of August, 1905, the intake had been enlarged to 300 feet and the entire river was running through the canal and into the Salton Sea, which was rapidly rising and submerging the Southern Pacific railroad track, which was hastily moved to higher ground.

Opposite the lower intake was an island, later called Disaster island, about five-eighths mile long and one-quarter mile wide, consisting of a sand bar on which a growth of cottonwood and arrow-weed had accumulated, having the main channel of the river flowing west of the island. From the northern end of this island a dam was constructed about 600 feet in length to the Mexican shore, the idea being to throw the river flow to the east channel and consequently to the old bed of the Colorado. On November 29th a heavy flood from the Gila came down and the dam was entirely swept away. This flood not only carried out the dam but was rapidly taking away Disaster island, and it widened the intake to 600 feet. This was the fourth failure to close the break. It was now determined to erect a head-gate of concrete and steel at Pilot Knob where foundations of granite could be secured, sufficient to carry the entire flow of the river and leave the bed of the river and consequently the break itself dry. This required the enlargement of the four miles of canal below and was a portion of plan

long contemplated, and while designed as a permanent improvement, to be built with a part of the money obtained from the Southern Pacific company, was now rushed through in the effort to regain control of the river. It was also determined to put a wooden head-gate in the canal, about 200 feet north of the lower intake channel, with a width of 120 feet, to carry a maximum of 9,000 second feet. This was completed on April 18, 1906, and was called the Rockwood head-gate.

On April 19, 1905, Mr. H. T. Cory of the Southern Pacific company was put in charge of the work of the California Development company and the Mexican company as general manager and chief engineer, Mr. Rockwood remaining with the companies as consulting engineer until October 1, 1906, when he severed his connection with them. In April, 1906, Mr. Randolph succeeded in inducing Mr. Harriman to advance $250,000 more to the company for the purpose of controlling the river and protecting the Imperial valley.

By April 10, 1906, the discharge of the river was 32,200 second feet, showing that the annual flood had begun, and therefore all thought of attempting to divert the water through the Rockwood head-gate by damming the crevasse before the summer flood should have been passed was abandoned. The summer flood of 1906 was very large. It widened the break from 600 feet to nearly 2,700, and when the peak of the flood was reached, some 75,000 second feet were flowing down Alamo river toward the Salton Sea which began to rise at the rate of seven inches a day. Much of this flood went overbank west and south and was carried by sloughs to New river, filling and over-

NEW RIVER, NEAR BRAWLEY

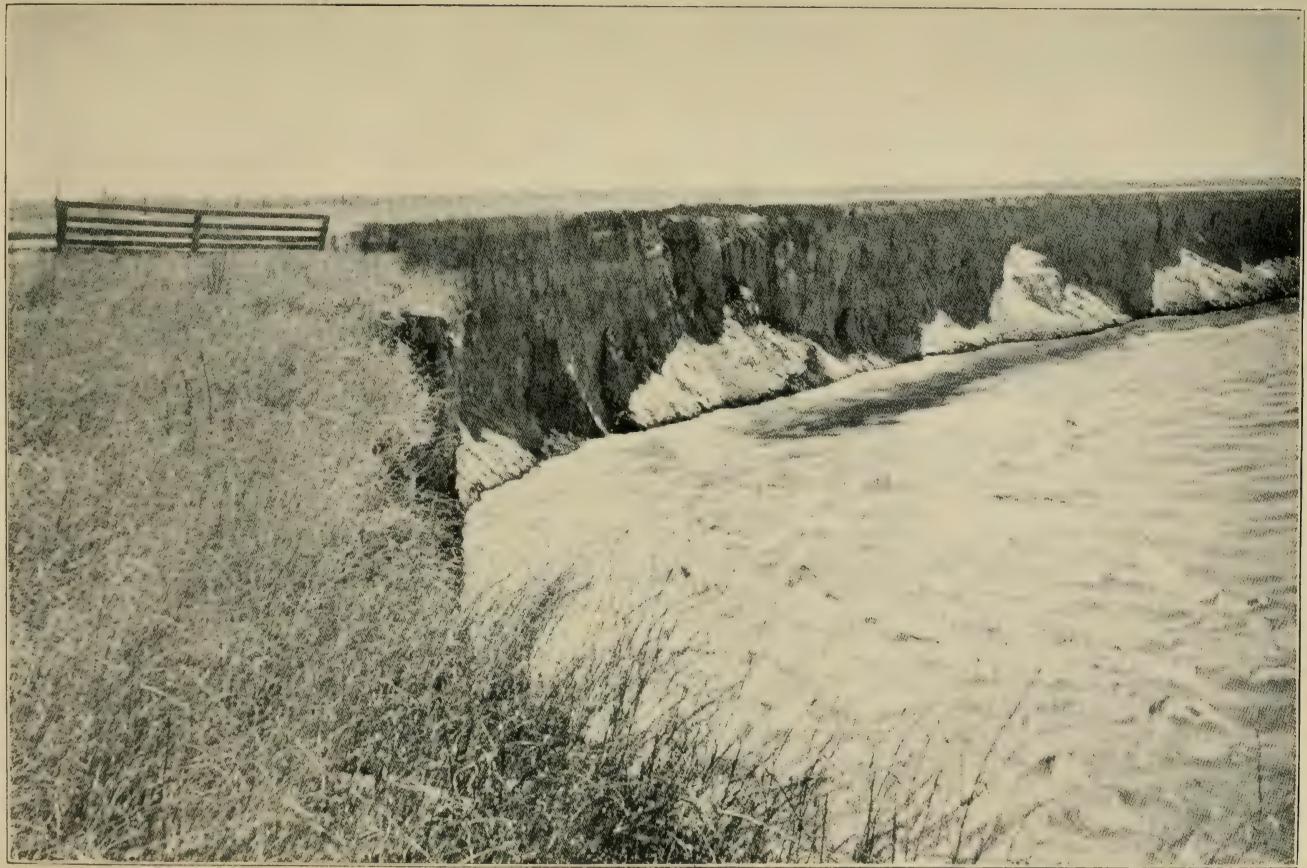
From an article by Mr. Arthur P. Davis, Assistant Chief Engineer of the United States Reclamation Service, in National Geographic Magazine for January, 1907.

Note the strong sweep of the current and the high bank of silt which is being rapidly washed away.

gate in the canal, about 200 feet north of the lower river channel, with a width of 120 feet, to carry a maximum of 1,000 second feet. This was completed on April 18, 1907, and was called the Rockwood head-gate.

On April 19, 1907, Mr. H. T. Cory of the Southern Pacific company was put in charge of the work of the California Development company and the Mexican company as general manager and chief engineer, Mr. [illegible] recovered his

By April 22, 1907, the discharge of the river was [illegible] thinking that the annual flood had begun, and therefore all thought of attempting to divert the water through the Rockwood head-gate by deepening the canal before the summer flood should have [illegible] was abandoned. The summer flood of 1907 was very large. It widened the break from [illegible] to nearly a mile, and when the peak of the flood was reached, some 75,000 second feet were flowing down Alamo river toward the Salton Sea which began to rise at the rate of seven inches a day. Much of this flood went overbank west and south and was carried by sloughs to New river, filling and over-





flowing that channel, and spread itself out to a maximum width of ten miles, just south of the boundary line, covering the ground to a depth of about four feet. The people of Calexico and Mexicali, threw up a hasty levee to protect their towns, encircling them by about five miles of levee with a maximum height of five feet.

The elevation of the water surface at the head of Disaster island, with a flow in the river of 10,000 second feet, is approximately 100 feet, while the bottom of the Salton Sea is approximately 287 feet, making the total fall in that direction 387 feet. The distance by the water courses is about ninety-five miles making the average fall 4.01 feet per mile. Towards the gulf the fall was 100 feet and the distance to tide water eighty miles, or a fall of 1.25 feet per mile. Toward the Salton Sea the descent of the arroyos was much more rapid and the water rushing down cut into their banks and began to erode their beds and formed falls or cataracts in the channels. These cataracts advancing up stream sometimes as fast as a foot per minute, cut gorges in the channel from sixty to eighty feet deep and from 1,000 to 1,500 feet wide. As the cataract of the New river passed the adjoining towns of Calexico and Mexicali it threatened them with total destruction. In Mexicali the railroad station, brick hotel, and a number of smaller buildings were carried away and the actual damage sustained was about $75,000; while in Calexico the damage was estimated at $15,000. The erosion threatened to leave the surface of the Imperial valley high and dry and should the cutting extend until the excess of fall to the Salton Sea over

that to the gulf had been distributed up the Colorado river, it might become impossible to irrigate the valley, and the inhabitants were confronted with the prospect of total destruction of their property. Some 3,000 acres of improved and 10,000 acres of unimproved land were eroded to such an extent as to be practically ruined for agricultural or for any other purpose, and the area occupied by the New and Alamo channels was increased by about 7,000 acres; while the destruction of flumes left some 30,000 acres in actual cultivation without any water whatever and absolutely uninhabitable for about a year and a half. In nine months the runaway waters of the Colorado had eroded from the New and Alamo river channels and carried into the Salton Sea a yardage almost four times as great as that removed from the entire Panama Canal.

By August 5th the discharge of the river had fallen to 24,500 second feet and preparations were made to divert the flow through the Rockwood head-gate by means of a by-pass extending from above the proposed dam, through the head-gate and returning it to the channel below the dam. Brush mattresses were sunk across the bed of the stream to which were fastened brush fascines eighteen inches in diameter and 100 feet in length bound with bailing wire and sewed to the mattress by heavy galvanized iron wire. A four-pile railroad trestle with ten-foot bends was started across this foundation, decked, and a railroad track placed thereon, connected at either end by levees run from the upper intake. Where the trestle crossed exposed sand bars in the river bed on either side of the



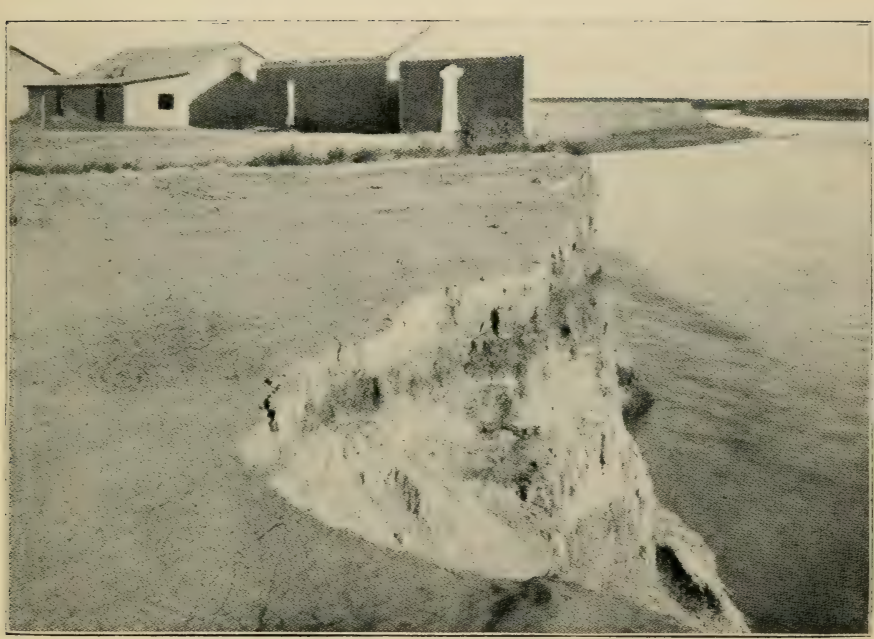
NEW RIVER, AT CALEXICO

From an article by Mr. Arthur P. Davis, Assistant Chief Engineer of the United States Reclamation Service in, National Geographic Magazine for January, 1907.

This photograph shows how deeply the great river cut into the soft floor of the desert.

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river, it might become possible to irrigate the valley,
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of total destruction of their property. Some 3,000
acres of cultivated and 10,000 acres of unimproved
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was increased by about 70,000 acres; while the destruc-
tion of dwelling houses, etc., was great. 50,000 acres in actual culti-
vation without any water whatever and absolutely
unsalable for about a year and a half. In nine
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close the flow through the Rockwood headgate by
means of a levee extending from above the proposed
gate, through the head-gate and rounding it to the
river below the same. Brush mattresses were sunk
upon the bed of the stream to which were fastened
bundles of willows eighteen inches in diameter and 100
feet in length bound with bailing wire and sewed to
mattresses by heavy galvanized iron wire. A four-
mile railroad trestle with ten-foot bents was started
across the bottom lands, and a railroad track
placed thereon connected at either end by levees run
from the upper mesas. When the trestle crossed
opposite the river bed on either side of the





stream it was filled with clay from the pit at Andrade, and cars run on it dumped into the river rock brought from the quarry. This track was an extension which the Southern Pacific railroad had built from Hanlon's Junction on the Yuma line to the rock quarry, and the clay and gravel pits at Andrade, near Pilot Knob, and thence to the lower heading or intake of the Colorado. In this way a difference of six feet in the water elevation above and below the diversion dam was soon attained. As the water rose at the dam more and more went through the by-pass and the Rockwood head-gate, until by October 10th but 1,450 second feet of the river's total discharge of 14,300 was passing through the dam; the rest going through the gate. On October 11th the head-gate went out and consequently the entire plan of rediverting the river by wooden head-gate and by-pass had to be abandoned. Three trestles one above the other, were now thrown across the by-pass and rock dumped therefrom as was done in the diversion dam in the main channel.

On November 4, 1906, the crevasse was closed and the river restored to its old channel, the flow being then 9,275 second feet, the dam sustaining a head of 15.8 feet, and on November 15th 300 second feet of water was flowing though the concrete head-gate and main canal into the Alamo channel below the lower heading.

The various operations along the river were now making satisfactory progress and the general manager took occasion to investigate the condition of the

California Development and the Mexican companies. A hurried examination disclosed the following desperate state of affairs:

Due Southern Pacific Company, audited bills and interest		$1,532,595.73
General audited bills and interest		73,786.72
Bonds and accrued interest		515,200.00
		$2,121,582.45
Damage claims (probable)		
Liverpool Salt Company	$ 50,000.00	
Land owners	200,000.00	
Water companies	500,000.00	
Southern Pacific Company	1,000,000.00	
Inter-Cal. R. R. Co. (S. P.)	250,000.00	2,000,000.00
		$4,121,582.45
To offset which the companies had the following assets:		
Real estate (chiefly in Mexico)	$545,037.26	
Stocks (chiefly unsold water stock)	175,600.00	
Machinery and Equipment	179,621.82	
Branch railroad track	63,000.00	
Canals in Mexico	375,000.00	
Canals in United States	308,616.37	
Accounts Receivable	235,137.02	$1,882,012.47
Deficit		$2,239,569.98

On December 5, 1906, a heavy flood came down the Gila and before morning on the 6th a large section of the levee at the south end of the dam went out and the entire river, with a discharge of 30,000 second feet, was rushing down to the Salton Sea, leaving its old bed entirely dry. The situation appeared hopeless. The people of the Imperial valley appealed to the

Southern Pacific company for help, but the company, on the advice of the chief engineer and general manager of the Colorado river properties, supplemented by the opinion of Mr. Randolph, president, declined to advance further money for the work, seeing no possible chance of ever being able to get back the large amount already sunk. They would, they said to the people, be very glad to place such equipment and organization as they had along the river, at the disposal of any party who wished to undertake its control, and would be willing to contribute toward the expenses thereof in proportion to the value of their interests as compared to all others in jeopardy, but they would not advance additional funds without a definite arrangement for being reimbursed. The railroad company immediately began construction of a roadbed for its main line above sea level and ordered the work rushed to completion.

A mass meeting of the people was held in Imperial on December 13th at which $950,000 was subscribed for river control work. These subscriptions were made payable ninety days after the break should be successfully closed, the railroad to assume all risk of the work. Meanwhile requests were sent out in all directions, resulting in numerous civic and political bodies and state authorities wiring to President Roosevelt asking to have the assistance of the United States government in the emergency. The president acted promptly, and as the result of telegraphic correspondence with Mr. Harriman, orders to start work on the river were received December 20th.

After the holidays Senator Flint of California introduced a bill in the senate providing for an appro-

priation of $2,000,000 for controlling the river. It provided for payment to the Southern Pacific company of the moneys it had expended and the balance was to be used to establish an irrigation project for Imperial valley by the United States Reclamation Service. Professor A. E. Chandler of the University of California, then with the Reclamation Service, was sent to the scene to make a special report, and President Roosevelt, on January 12, 1907, sent a special message to congress severely criticizing the promoters of the California Development company and urging the passage of the Flint bill in order to relieve the settlers of the Imperial valley from the injustice they were enduring. This bill was opposed by the settlers, who preferred the existing irrigation arrangements to those that would follow under the Reclamation Service, and who desired governmental assistance in river protection only. The bill therefore failed to pass.

The work of closing the second break proceeded vigorously. Four times the river swept away the piling and trestles, but on February 10th, at 11 P. M., the break was closed and all the water was again going down the old channel. The river discharge on December 20th, the time work was begun, was 12,500 second feet. The apex of the flood was reached December 31st when it was 48,900 second feet, and the day after the break was closed, February 11th the discharge was 20,800 second feet. The work was done by Mr. H. T. Cory, chief engineer and general manager, with the assistance of Mr. T. J. Hind, superintendent of the first closing of the break, and Mr. C. K. Clarke, superintendent of the second closing.

The summer flood of 1907 caused a heavy flow into Volcano lake raising it higher than it had ever been before and a large quantity of water passed through New river into Salton Sea. It caused, moreover, a cutting back of sloughs or "fingers" from Volcano lake toward the river which promised another diversion along the Pescadero, Abejas, or Padrones rivers. To prevent Volcano lake discharging its waters into the Salton Sea a levee was constructed from Cerro Prieto, on the west side of the valley, running north of Volcano lake to the low ridge to the east. The flood of 1908 caused a break in the river through one of the "fingers" above referred to and soon the entire river was again diverted to the west and carried by the channel of Abejas river into Volcano lake and thence by Hardy's Colorado to the gulf. The fear that the flood waters would overtop the levee which alone protected the Imperial valley from the flood agitated the settlers. The Southern Pacific company had received nothing on account of its expenditures for river control and on the recommendation of General Manager Cory the authorities controlling the railroad company determined they would no longer stand alone in the breach and carry the entire expense. The fact that the menace to property on American soil came from Mexico greatly complicated the difficulty. The inhabitants of Imperial valley sent urgent applications to President Taft for help and civic and commercial bodies of California, as well as state officials, joined in the appeal. The president sent a special message to congress resulting in a joint resolution, approved June 25, 1910, appropriating $1,000,000 to be expended by the

president for the purpose of protecting the lands and property in the Imperial valley, and the president was authorized to expend any portion of such money within the limit of the Republic of Mexico as he might deem proper in accordance with any arrangements he might make with Mexico.

The situation as it is now shows that the Colorado has abandoned its old channel apparently for good. It has made a new channel for itself through Abejas river, Volcano lake, and Hardy's Colorado. In time it will build up the bed of this channel until it rises so high above the land that the floods coming down will cause it to break away again and form another, to repeat the same process. The plan is to compel it to return to its bed by extending the levees on either side of the stream to within a short distance of the gulf, strengthening them beyond the danger of further break. The property within the limits of the United States is now reasonably safe from the overflow, and while the damage done by the runaway river is great the chief sufferers are the railroad company, the Development company, the Mexican company, and the Mutual water companies. The two development companies are bankrupt and in the hands of a receiver. The settlers have suffered comparatively little. Some farms have been washed away, others have been flooded to the damage or destruction of the crops, and still others have had all water cut off for a year and a half; while portions of the towns of Calexico and Mexicali have been carried away. On the other hand the settlers have gained protection for their lands and the experience with the Colorado will be most valuable

to them. There is a better understanding of the force of the river and of the unstable character of the banks through which it flows, in regard to holding qualities. Not only is the settler assured of protection, but he is also assured of sufficient water for his needs. By the erosion of the Alamo and New river barrancas they have acquired the main features of a comprehensive drainage system for the entire Imperial valley with the Salton Sea as a sump. A few spots in the valley are beginning to indicate an undesirable increase of alkali in the soil and the only effective treatment of such soils is by a thorough washing, the water passing off through natural or artificial drainage ways. The soil is of unknown depth; a well put down by Mr. George Chaffey, at the site of what is now Imperial City, in hopes of securing a supply of water for domestic purposes went down 670 feet in silt all the way.

At Sharp's Heading on the Alamo river seven miles east of Calexico the water is delivered to the canals of the different mutual water companies. This distributing system has over 800 miles of canals, from those ninety feet wide, carrying water from eight to ten feet deep, down to those of six feet in width, carrying ten to twelve cubic feet of water per second. Owing to the creation of the barranca of New river the land west of this channel was cut off from water and to fill the west side main canal a wooden flume supported by piling was constructed across the gorge, 1,860 feet long, with a trestle fifty-five feet in height and supporting a rectangular flume of two-inch redwood, sixteen feet wide and six feet deep.

A spectacular effect of the river break was the creation of the Salton Sea, or rather the filling of the depression. The maximum area covered (January, 1907) was 445 square miles, the maximum depth of the water being seventy-six feet.

The total area under irrigation and cultivation in the Imperial valley in California is 320,000 acres, and there are 210,000 acres additional land that may be irrigated, while in Lower California there are approximately 300,000 acres more. The valley has a population of 40,000 and the estimated value of the production for 1914 is somewhere between $15,000,000 and $20,000,000. The valley raises cotton of fine quality and the output this year will be 60,000 bales. Of alfalfa, barley, and corn, the value is $3,750,000; of cattle, horses, mules, sheep and hogs raised, the value is over $2,000,000; 18,000 pounds of butter a day is produced, and Imperial is the second county in the state in this product. Dates are being grown at Holtville and Heber, and fine stock of African and Persian Gulf varieties are being planted. The fruit and vegetable output for the year will amount to over $1,000,000; the cantaloupe crop alone being 3,400 cars. Apricots, peaches, plums, almonds, pears, figs, and all the citrus fruits grow to perfection and are the first in the market. The season is long, the climate warm and dry, and the soil is inexhaustible. These statements may be taken as a reply to the unfavorable reports and the harsh criticisms of the experts of the United States Department of Agriculture and the officials of the Reclamation Service. It is undoubtedly true that the enterprise was undertaken with insuffi-

cient funds for a project of that magnitude; that speculators acquired large tracts of land which they sold to settlers at high figures; that the lawyers have reaped undue rewards in the harvest of litigation which followed the settlement, and that many of the original settlers, after untold hardships, have had to give up and leave, as has been charged; but when one thinks of the waste howling wilderness, of the desert whose trails were lined with the bones of its victims, surely the transformation is great: the world has seen nothing like it. All honor to those who endured the heat, the toil, and the suffering in their efforts to redeem the land, and to those who harnessed the mighty river and compelled it to do their will.

(The main facts in regard to the development companies are furnished by Mr. H. T. Cory, member of the American Society of Civil Engineers, in a paper on Irrigation and River Control in the Colorado River Delta, in Transactions of the Society, Paper No. 1270, Volume LXXXI, p. 1204.

Acknowledgment is also due to Mr. Arthur P. Davis of the U. S. Reclamation Service, Article in National Geographic Magazine for January, 1907; to Mr. W. C. Mendenhall, U. S. Geological Survey, Article in National Geographic Magazine for August, 1909, and to Mr. Andrew M. Chaffey of Los Angeles.)

CHAPTER XI.

INDIAN AFFAIRS—POLITICAL HISTORY

1769–1914

IN the intercourse between the aborigines of California and the white men, the Indians, as in other parts of the United States, have been the sufferers. It matters little whether the white men were of the Spanish race or the English—or rather American: with the principal indictment perhaps against the latter. While the good padres made converts of the mild and unwarlike tribes of the coast, they also made slaves of them and though they did not shoot them down the mortality among the neophytes of the missions was frightful. But the missionary efforts never extended to the wild Indians of the mountains or of the Tulares who waged unceasing war against them and called out many punitive excursions of presidial troops. These latter sometimes degenerated into mere expeditions for the capture of recruits to the ranks of neophytes and slaves, and in return they provoked raids upon the missions and settlers by the more warlike of the natives. With the coming of the gold immigration there was further outrage committed. The savages were in the way and the miners were frequently brutal in their treatment of them. This was resented by the Indians and mistreatment of their women by white men was the cause of several "massacres." Such was the case at Kelseyville (Clear Lake) where, in 1849, Kelsey and Stone were killed by Indians, as they deserved to be, and when Captain Nathaniel Lyon with a company of United States troops was sent to punish the Indians for the "murders," his report shows that he killed one hundred and seventy-five savages. It was also the cause of the Piute War in Nevada (then Utah Territory) in which a number of Californians lost

their lives. Some white men caught five or six Piute women and kept them locked in their cabin for a week. The Piutes, a tribe of brave and warlike Indians, took terrible vengeance for the outrage done them.

The early immigrants who crossed the plains found the Indians friendly. This is the testimony of John Bidwell, Edwin Bryant, and others. In later years the Indians, owing to ill-treatment by the immigrants, became very hostile, hovering about the immigrant parties, stealing their stock and sometimes committing murder; and the hatred for Indians acquired by the immigrants on the plains was extended to the milder aborigines of California whom they designated by the contemptuous term of "Diggers." This name had originally been applied by the Blackfeet Indians to the Shoshone or Snake Indians as a term of reproach, because they subsisted largely upon roots, instead of following the more lordly vocation, the chase. The term was adopted by the mountain men and trappers, as an expression of contempt, and soon by the immigrants who applied it as well to the California Indians, neither knowing nor caring whether the appellative fitted them or not. There are, in fact, no Digger Indians in California.

Numberless outrages were committed upon the Indians of the northern part of California by the rough hunters and trappers coming from Oregon, many of whom made it a rule to kill an Indian whenever opportunity offered. One of Frémont's men in his statement says: "We followed up the Sacramento, killing plenty of game and an occasional Indian. Of the latter we

made it a rule to spare none of the bucks."* John Bidwell says that Ezekiel Merritt, commander of the Bear Flag party, whom Frémont says was his field lieutenant, boasted of his prowess in killing Indians, and the handle of the tomahawk he carried had nearly a hundred notches to record the number of his Indian scalps.† The fiercer tribes of the north repaid these outrages with interest and the United States troops as well as volunteer parties organized among the settlers were sent to exterminate them, and the white men usually shot down all the Indians they met without considering whether they were innocent or guilty. The United States government took early account of the condition of their wards in California and in 1847 appointed agents to care for and watch over them. These agents reported that the outbreaks of the Indians were usually the result of injury to or outrage upon them by white men. Edward F. Beale, who came as passed midshipman of the *Congress*, and later was lieutenant of the California battalion, was made superintendent of Indian affairs in California, and in 1852 reported that Indians were caught like cattle for the work season, and then turned adrift; and that out of one band so treated eighteen died of starvation; that it was also common to kidnap children and enslave them; and early writers tell terrible tales of the treatment of Indians by miners. It is not too much to say that the repeated outrages upon them very often justified the rising of the Indians and it was not infrequently the case

*Thomas S. Martin, *Narrative of Frémont's Expedition, 1845–47*, MS., Bancroft Library.

†*Century Magazine, Vol. XIX, p. 523.*

that in the fights with the forces sent against them the Indians were victorious—particularly the warlike tribes of the north—the Klamaths, the Modocs, and the Pitt River Indians.

The Indian troubles in California are past, chiefly through the extermination of most of the Indians. The few left are, as a rule, civilized—that is, they wear the cast off clothing and work at the odd jobs of the whites in their localities.

The debates in the constitutional convention of 1878–9, which were published from day to day, attracted great attention and awakened in the public mind a desire for freedom from the humiliating rule of Kearneyism which had for more than two years dominated the people. The legislature elected to carry into effect the provisions of the new constitution was cautious and conservative. The Workingmen's party held a convention, at which Denis Kearney presided, and nominated a full state and legislative ticket. In the legislature the Republicans predominated with the Workingmen in the second place, while in the gubernatorial contest the Workingmen's candidate came in third; George C. Perkins, the Republican nominee, having a plurality of twenty thousand. Perkins was a prosperous merchant and was born in Maine, August 23, 1839. He had come to California, a sailor boy of sixteen, and after a few months at the mines went to Oroville where he obtained employment as porter in a general merchandise store of which he afterwards became owner. In 1872 he became a partner in the San Francisco firm of Goodall and Nelson, afterwards known as Goodall, Nelson, and Perkins, a large com-

mission and shipping house, owners of the Pacific Coast Steamship company and other lines. He served three terms in the state senate, the full term as governor as provided in the new constitution, and in 1893 was appointed United States senator to fill the vacancy caused by the death of Leland Stanford. Mr. Perkins has been regularly reëlected and will have completed his last term, March 4, 1915, and retire, full of years, to be succeeded by James D. Phelan, Democrat, and former mayor of San Francisco.

Denis Kearney made his last appearance in the political arena during the legislative session of 1880, when he made himself obnoxious, was ruled off the floor of the assembly, denied the privilege of the galleries, halls, committee rooms, and all other rooms for the rest of the session, and directions were given to see that the resolution was enforced, not only during the hours of the session but during all hours and at all times.* That was the end; he passed out of the lime light and men knew him no more. He died in Alameda county, April 24,1907.

Although Kearney had been eliminated his candidate for mayor of San Francisco, Isaac S. Kalloch, a Baptist preacher of somewhat unsavory antecedents, was elected by the Workingmen's party. Kalloch preached Sunday evenings at the Metropolitan Temple on Fifth street, where, it is said, he devoted fifteen minutes to religion and forty-five to politics. Admission tickets were sold at the box office in the vestibule, price ten cents, and the house was usually well filled. During

*Hittell, *History of California, Vol. IV, p. 654.*

the campaign the San Francisco "Chronicle," published by Charles and Michael H. de Young, attacked Kalloch and made damaging statements against him. Kalloch replied from his pulpit making some scurrilous remarks concerning the women of the De Young family. Resenting this attack Charles de Young on August 26, 1879, drove to Kalloch's study in the Metropolitan Temple, and calling him out, shot and seriously wounded him. The assault on their candidate was skilfully used by the Workingmen, and Kalloch was elected mayor by a large majority. De Young was charged with assault with intent to kill and in preparation for his defense he sent east and had Kalloch's record looked up. Some evidence very damaging to Kalloch's character was obtained and fearing the effect of this if produced in court, the mayor's son, Isaac M. Kalloch, went to the Chronicle office April 23, 1880, and shot Charles de Young to death. Young Kalloch was tried for murder and acquitted. Mr. James Bryce comments on this, saying: "He had only done what the customary law of primitive peoples requires. It survives in Albania, and is scarcely extinct in Corsica"* —a little severe, I think, on California: as like proceedings could have taken place in England, and a similar affair has recently occurred in France: witness, the Cailliaux case.

Next in importance to the Chinese question loomed that of the railroad. The new constitution provided for a railroad commission of three to be elected by the people and gave them full power to regulate freights

**The American Commonwealth, Vol. II, p. 394.*

and fares. The first commissioners were Joseph S. Cone, Charles J. Beerstecher, and George Stoneman. This commission accomplished nothing for the people who, dissatisfied with the result of their experiment, demanded an investigation of the conduct of the office. The committee of the assembly (legislature of 1883) reported that the commission had not properly attended to its duties; that Cone, though wealthy before, had received deeds for large tracts of land from the railroad company, and that Beerstecher had gone into office poor and had come out comparatively rich; that Stoneman had made an attempt to accomplish something in the way of regulating freights and fares but had been defeated by his colleagues.* George Stoneman was born in New York state and graduated from West Point in 1846. He came to California as lieutenant and assistant quartermaster of the Mormon battalion; served in California until 1853 when he was ordered to Texas. He fought through the Civil War, became a major-general and a great cavalry leader. He did not succeed in accomplishing anything as a railroad commissioner, but his stand for the people made him a popular hero and he was elected governor of California in 1882 to serve four years from January, 1883, according to the term provided in the constitution. Although Stoneman was a gallant cavalry officer, his career as railroad commissioner and as governor added nothing to his fame. The succeeding railroad commission was no better than the first, the railroad possessing two of the three members, and there was no change in this

*Hittell, *History of California, Vol., IV. p. 677.*

condition until the advent of the Interstate Commerce commission took the matter of freights and fares out of their hands, so far as business originating in or consigned to states other than California was concerned.

An interesting event during Stoneman's reign was the election of a United States senator to succeed James T. Farley, whose term would expire March 4, 1885. It was understood among the railroad people that Aaron A. Sargent, who had been so useful to them and, as we have seen, had drawn and engineered through congress the Pacific Railroad bill of 1862, was to go to the senate. Sargent had also managed a bill before congress to secure for a railroad terminus the island of Yerba Buena, off the foot of Market street, San Francisco, a measure that was only beaten by a hard fight lasting three years. Sargent was a native of Massachusetts, born in 1827, and came to California in 1849. He was admitted to the bar in 1854 and in 1861–2 was a member of congress. In 1871 he was elected United States senator to succeed Cornelius Cole, serving from 1873 to 1879. At a meeting of the railroad men, attended by Leland Stanford, Charles Crocker, Collis P. Huntington, and Aaron A. Sargent, the matter was arranged and agreed to by all that Sargent, who was a warm personal friend of all, should represent them in the United States senate. But it was decided in the Republican caucus that Stanford should be put forward and when the nominations came to be made, January 27, 1885, Sargent's name was not mentioned. This reward for long and faithful service broke Sargent's heart. It is said that Stanford did not contemplate

being a candidate until he became convinced that Sargent could not be elected. "It had long been Stanford's wish," says Brancroft, "that the choice should fall on A. A. Sargent, and this selection he constantly urged on his friends. Only after frequent protests and remonstrances did he accept the appointment, in deference to his party's opinion."* However that may be, his protests and remonstrances were not made sufficiently loud to reach the ears of his partners, one of whom, at least, was not aware of what was going on until the caucus decision was made known. Stanford was ever surrounded by a clique or coterie of flatterers and base sycophants who had no difficulty in advancing their own fortunes by feeding his prodigious vanity. But Huntington never forgave his treachery and when he concluded that the time was right, pushed Stanford out of the presidency of the Southern Pacific company.† The election to the United States senate of the president of the Southern Pacific created in the state a strong feeling in favor of the election of senators by direct vote of the people, though it was more than a quarter of a century before this sentiment crystallized into law. Stanford served his full term; was reëlected in 1891 and died in office, June 21, 1893.

During Stoneman's administration the matter of irrigation came into prominence by reason of a decision of the supreme court confirming the doctrine of riparian rights, as defined under the common law, whereby the owner of land on the bank of the stream was entitled

*_History of California, Vol. VII, p. 431–2._

†On April 9, 1890, Stanford resigned the presidency of the Southern Pacific and became chairman of the executive committee. His successor was C. P. Huntington.

to the full, undiverted flow of the stream in front of his property, irrespective of irrigation or other needs of non riparian proprietors. Under the sanction of long continued custom which had treated the flowing waters of the state as public property and dedicated them to common use, a system of irrigation had grown up under which large areas of desert wastes had been converted into orchards and vineyards, creating millions of taxable property.* The decision of the court struck consternation into the ranks of the irrigationists and the governor was besieged to call an extra session of the legislature in hopes of gaining thereby some relief for them from the riparian rights doctrine. An extra session of the legislature was called for July 20, 1886, but beyond the introduction of a number of bills for relief of the agriculturists nothing was done. A perfect flood of petitions and protests from all parts of the state poured in upon the legislators and it was realized that the subject required careful deliberation and digestion before an effective remedy could be devised. Under the decisions of the courts a conflict had arisen. The Civil Code, 1873, declared that, as between proprietors, the first in time was the first in right, a declaration which appeared to be in conflict with the riparian rights decision.

Stoneman's successor was Washington Bartlett, a lawyer and journalist of San Francisco, born in Georgia in 1824 and a pioneer of 1849. Bartlett did not live long after his election but died September 12, 1887, and Robert W. Waterman, elected lieutenant governor,

*This question is fully discussed in the paper on Conservation by Hon. George C. Pardee in *Vol. V, p. 363.*

succeeded him. Waterman served out the balance of the term and was succeeded by Henry H. Markham of Los Angeles, who had served a term in congress as representative from the sixth district of California, 1884–5.

The governors of California have been:

SPANISH PERIOD:	
Gaspar de Portolá	1767–1771
Felipe Barri	1771–1774
Felipe de Neve	1774–1782
Pedro Fages	1782–1790
José Antonio Romeu	1790–1792
José Joaquin de Arrillaga, ad interim	1792–1794
Diego de Borica	1794–1800
José Joaquin de Arrillaga	1800–1814
José Darío Argüello, ad interim	1814–1815
Pablo Vicente de Sola	1815–1823
MEXICAN PERIOD:	
Luis Antonio Argüello	1823–1826
José Maria de Echeandia	1826–1831
Manuel Victoria	1831–1832
Pio Pico, ad interim	1832–1833
José Figueroa	1833–1835
José Castro, ad interim	1835–1836
Nicolás Gutierrez, ad interim	1836–4 months
Mariano Chico	1836–4 months
Nicolás Gutierrez, ad interim	1836–3 months
Juan Bautista Alvarado	1836–1842
Manuel Micheltorena	1842–1845
Pio Pico	1845–1846
MILITARY RULE:	
John D. Sloat	July 7–29, 1846
Robert F. Stockton	July–December, 1846
*Stephen W. Kearny	December, 1846–May, 1847

*We have treated General Kearny as governor of California from December 12, 1846, the date he arrived at San Diego, that being in accord with his instructions from the war department. Frémont cannot be considered as governor of California, notwithstanding Stockton's commission of January 16, 1847—Stockton having no authority to issue such a commission, Kearny, senior officer of both, being in the province.

Richard B. Mason	May, 1847–April, 1849	
Bennet Riley	April, 1849–December, 1849	
STATE GOVERNMENT:		
Peter H. Burnett	1849–1851	Resigned
John McDougal	1851–1852	
John Bigler	1852–1855	
J. Neeley Johnson	1855–1858	
John B. Weller	1858–1860	
Milton S. Latham	1860–1860	Resigned
John G. Downey	1860–1862	
Leland Stanford	1862–1863	
Frederick F. Low	1863–1867	
Henry H. Haight	1867–1871	
Newton Booth	1871–1875	Resigned
Romauldo Pacheco	1875–1875	
William Irwin	1875–1880	
George C. Perkins	1880–1883	
George Stoneman	1883–1887	
Washington Bartlett	1887–1887	
Robert W. Waterman	1887–1891	
Henry H. Markham	1891–1895	
James H. Budd	1895–1899	
Henry T. Gage	1899–1903	
George C. Pardee	1903–1907	
James N. Gillett	1907–1911	
Hiram W. Johnson	1911	

The senators of the United States for California:

The legislature of 1850 elected William M. Gwin and John C. Frémont. The admission bill was approved September 9, 1850, and two days later the California senators were seated, Gwin having drawn the long term. The junior senator (Frémont) only occupied his seat for about three weeks, having hastened to California to look after his reëlection, and did not attend the second session of the thirty-first congress. The second California legislature met in January, 1851, and balloting for senator began February 18th, the candidates being John C. Frémont, Soloman Heydenfeldt, T.

Butler King, John W. Geary, John B. Weller, and James A. Collier. The whole number of votes was forty-nine: necessary to a choice twenty-five. Frémont received eight votes on the first ballot. The times had changed since the days of the Bear Flag war, and the mock heroics and the Napoleonic dispatches of the young "conqueror" of California failed to fire the imagination of the legislators of 1851. Sixteen votes was the highest point Frémont reached and after taking one hundred and forty-two ballots the legislature adjourned without electing a senator. In 1852 John B. Weller was elected to fill the vacancy. On the expiration of Gwin's term the legislatures of 1855 and 1856 failed to elect a successor, and in 1857 Gwin was elected to fill the vacancy. In 1859, after the death of Broderick, Henry P. Haun, a pioneer who crossed the plains in 1849, was appointed by Governor Weller and served until the meeting of the legislature in 1860, when he was succeeded by Milton S. Latham, a Lecompton Democrat, who had been inaugurated governor of California the day before he was elected senator. Four senators have died in office, viz.: David C. Broderick, September 16, 1859; John F. Miller, March 8, 1886; George Hearst, February 28, 1891, and Leland Stanford June 21, 1893.

Following is the list of senators:

John C. Frémont	1850–1851
William M. Gwin	1850–1855
David C. Broderick	1857–1859
Henry P. Haun	1859–1861
James A. McDougall	1861–1867
Milton S. Latham	1861–1863
John Conness	1863–1869

Cornelius Cole	1867–1873	
Eugene Casserly	1869–1873	Resigned, November 28, 1873
John S. Hager	1873–1875	Served remainder of term
Aaron A. Sargent	1873–1879	
Newton Booth	1875–1881	
James T. Farley	1879–1885	
John F. Miller	1881–1886	Died in office
George Hearst	1886–1886	Appointed to fill vacancy
A. P. Williams	1886–1887	Elected for balance of term
Leland Stanford	1885–1891	
George Hearst	1887–1891	Died in office
Charles N. Felton	1891–1893	Appointed to fill vacancy
Leland Stanford	1891–1893	Died in office
George C. Perkins	1893–1897	Appointed for balance of term
Stephen M. White	1893–1899	
George C. Perkins	1897–1903	
Thomas R. Bard	1900–1905	Legislature of 1899 failed to elect successor to White
George C. Perkins	1903–1909	
Frank P. Flint	1905–1911	
George C. Perkins	1909–	
John D. Works	1911–	

Romauldo Pacheco was the only governor of California of Spanish blood after the American conquest. He had served in the assembly, state senate, as county treasurer, and county judge, and was elected lieutenant-governor on the ticket with Newton Booth. Booth resigned in January, 1875, to become United States Senator and Pacheco succeeded to the governorship, serving to December 31, 1875. He served two terms as member of congress, 1878 to 1882. He was a son of Captain Romauldo Pacheco who came with Echeandia in 1826, as aide-de-camp; was killed in a fight with

a party of insurgents December 5, 1831; and whose wife was the beautiful Ramona Carrillo of San Diego, afterward married to Captain John Wilson.

In 1911 suffrage was granted to women in California and the state adopted the Initiative, Referendum, and Recall. The Initiative provides that upon presentation of a petition signed by the qualified electors of the state equal to eight per cent of all the votes cast for all the candidates for governor at the last preceding election at which a governor was elected, any proposed law or amendment to the constitution, set forth in full in said petition, shall be submitted by the secretary of state to the electors at the next succeeding general or special election occurring ninety days subsequent to the presentation of the petition.

The Referendum provides that upon a petition signed by five per cent of the qualified electors of the state no act or portion of act of the legislature, except acts calling for elections, providing for taxes, for current expenses, or for measures for preservation of the public peace, health, or safety, shall go into effect until and unless approved by a majority of the qualified electors voting thereon; and no act, or law, or amendment to the constitution initiated or adopted by the people shall be subject to veto by the governor, and can only be amended or repealed by a vote of the electors unless otherwise provided in said initiative.

The Recall provides that any official may be removed from office at any time by the electors entitled to vote for a successor to such incumbent. The petition for recall must be signed by qualified electors equal to twelve per cent of all the votes cast at the preceding

election for all the candidates for said office, provided, that no recall shall be made within six months following the entering upon the discharge of his duty by such official, except in the case of a legislator, a petition for whose recall may be made five days after his taking office.

In the elections of November, 1914, seventeen initiative measures were submitted to the electors—eight being proposed amendments to the constitution, and nine adding to the penal code and statutes. Of these six were adopted and eleven rejected. The most important of these proposed measures: that providing for a compulsory eight hour law, making it a misdemeanor punishable by fine or imprisonment or both for an employer to require or permit, or to suffer an agent to require or permit, any person in his employ to work more than eight hours in one day, except in case of extraordinary emergency caused by fire, flood, or danger to life or property, was rejected by 568,881 negative votes out of a total of 811,573. Another, providing for state wide prohibition and prescribing penalties for violation of same, was defeated by 542,781 negative votes out of a total of 908,317.

Four measures adopted by the legislature were submitted by referendum to the electors at this election. Of these, three of the laws were confirmed and one was rejected.

In the matter of the initiative a few interested individuals can, by the exercise of a little activity, obtain sufficient signatures to a petition to cause such

a law or amendment as they may wish to see written into the constitution or the statutes, submitted to the people. It must be remembered that the great mass of the people, even if they have sufficient intelligence, have neither the training nor the time to devote to the study of such a proposed measure, supposing them to have the inclination to do so. At the election of November 3, 1914, in addition to a state, senatorial, and congressional ticket, there were forty-eight amendments to the constitution, the laws and the referendum to be voted upon. Outside of a few measures like the prohibition, eight hour law, etc., which are easily understood, it is doubtful whether the mass of the electorate could form much idea of the merit or otherwise of many of the proposed laws. Legislatures may be improperly influenced to pass bad laws, but what can be worse than a mass of undigested and indigestible laws put on the statute books through the initiative of the people? The body politic cannot, with profit, be turned into a body of law makers.

On May 17, 1913, was approved an alien land bill, providing that aliens not eligible to citizenship can only hold land in California in the manner provided by the treaty between the United States and the country of which such alien is a citizen or subject. The passage of this bill was strongly opposed by the federal government but the opposition did not prevail.

By an amendment to the Political Code of California, approved May 27, 1913, election of United States senators by the people was adopted. Thus, after

nearly thirty years' agitation has a great reform been accomplished. The first election under this act was held November 3, 1914, and James D. Phelan, a Democrat, a former mayor of San Francisco, and an able and patriotic citizen was elected receiving 279,896 votes to 255,232 for Francis J. Heney, Progressive, and 254,159 for Joseph R. Knowland, Republican.

CHAPTER XII.

THE EVOLUTION OF SOCIETY

UNDER the rule of Spain colonization in California proceeded very slowly. The king owned all the lands, recognizing the rights of the aborigines to such lands as might be needed for their support and held by the missionary priests in trust for them, and it was not until the end of the eighteenth century that steps were taken to reduce the public lands to private ownership. Some grants of land were made to soldiers and thus was begun the establishment of property in California. Up to this time the country was a wilderness inhabited by roving savages, with here and there on the coast a little group of soldiers and a few missionary priests. Instead of deriving an income from his province of California, the king had to support the troops and the missionaries with the help of such supplies of grain, beef, and fruits as the missions could contribute to the presidios. Colonel Costanzó, the engineer officer of the Portolá expedition, was sent to California in 1794 to ascertain the cause of the backwardness of the province, and he reported that what the country needed was settlers; that priests and soldiers would do for a time but they could not colonize the province; that there was no trade, and agriculture was confined to the missions and the few pobladores in the feeble pueblos of San José and Los Angeles. An effort was made to attract settlers to California but notwithstanding liberal offers by the government of pay, rations, land, and freedom from taxation, colonists would not come. There was no trade permitted and consequently no market for the output of the farmer; he must sell his produce to

the military authorities at such prices as they might name, while careful paternalism imposed numberless restrictions upon him.

From the earliest period Spain jealously guarded all approaches to California and resented the attempt of the foreigner to effect a footing. *Los extrangeros* were not wanted. The first American who came to California was landed by Alejandro Malaspina, the explorer, at Monterey in 1791. He came to remain and his burial is recorded on the mission register, September 13th of that year, under the name of John Groem, son of John and Catherine Groem, Presbyterians, of Boston.

So strictly were the king's orders regarding foreigners obeyed that when in 1795 a sailor, Joseph O'Cain, "a young man of the Boston nation," as the comandante called him, landed at Santa Barbara and sought permission to remain in the province, "become a Christian, and serve his Catholic majesty," he was incontinently packed off to San Blas in the transport, *Nuestra Señora Aranzazú*, and nineteen years elapsed before another attempt was made by a foreigner to settle in California. This was successful, but was a rather involuntary proceeding—three men being landed at Monterey from the *Isaac Todd*, an armed English merchantman, in January, 1814. They were sick with scurvy and thought to be dying, but one of them, a boy of twenty named John Gilroy, was taken by a kind hearted woman and nursed back to health. Through the intercession of Captain José de la Guerra y Noriega the viceroy permitted him to remain. He was a Scotchman and his real name was John Cameron, but having run away from home he had changed his name to avoid arrest. He was baptized

into the Roman Catholic faith and Ignacio Ortega, son of the pathfinder, gave him his daughter, Maria Clara, to wife, and one *sitio** of his rancho of San Isidro.

The first American to become a citizen of California was Thomas Doak, of Boston, who came with Captain Henry Gyzelaar on the schooner *Lydia* and deserted from that vessel at Monterey in March, 1816. Doak was baptized into the Roman Catholic faith on December 22, 1816. He was a carpenter of good habits, and was married in 1820, by vice-regal permission, to Maria Lugarda, daughter of José Mariano Castro, in the mission church of San Juan Bautista where the register shows his name as Felipe Santiago Doc.† He died about 1848 leaving a good record and four children.

In 1820 California had thirteen foreigners, viz: three Americans, two Scotchmen, two Englishmen, one Irishman, one Russian, one Portugese, and three negroes. Comandantes of presidios were obliged to report each year all foreigners within their various jurisdictions. In 1821 the port of Monterey was opened to foreign trade and the number of ships on the coast increased. In 1822 William A. Richardson, an Englishman, mate of the English whaler *Orion*, left the vessel at San Francisco and was permitted by Governor Sola to remain in California on condition of his teaching the young Spaniards the arts of navigation and carpentry. He was baptized, June 16, 1823, and on May 15, 1825, was married at the mission of San Francisco to

*A *sitio* is one square league, 4438.56 acres. The town of Gilroy is on this rancho.

†It was customary when adults were baptized to give them new names. Doak's name was Thomas, but it became Felipe Santiago (Philip James) and he so appears in the Monterey *padron* of 1836.

Doña Maria Antonia, daughter of Lieutenant Ignacio Martinez, comandante of San Francisco. Richardson made the first plan for the town of Yerba Buena (San Francisco), erected the first structure there on what was afterward Dupont street, became the owner of the Sausalito rancho in 1836, and in 1837 was captain of the port of San Francisco.

In 1822 an Englishman named Robert Livermore deserted from the English brig, *Colonel Young*, and was baptized Juan Bautista Roberto. He married Josefa Higuera, a widow, and established himself on the Positos rancho, in what is now Livermore valley, where he lived the remainder of his life. Don Roberto died in 1858, leaving a good reputation and a large family.

Meanwhile from the north and from the east hardy bands of hunters and trappers were approaching California. From the north, the trappers of the Hudson's Bay company came into the upper valley of the Sacramento, while across the burning sands of the Big Basin came the American hunters. Most of these returned, being of too restless and roving disposition to settle anywhere; but whether the foreigners blew in from the sea or drifted across the sand, those who remained became assimilated with the Californians, learned their language, married their daughters, and became, to all intents and purposes, as the *hijos del pais*. This is particularly true of those who came before 1840. The pretty señoritas showed a decided leaning toward Americans, preferring those who followed the sea. Joaquin Carrillo, of San Diego, had two handsome daughters who married sailors. The beautiful Josefa was wooed by José Maria Echeandia, the governor

of California, and also by Captain Henry D. Fitch, of Massachusetts, commander of the Mexican brig *Maria Ester*. The girl's father was inclined to favor the governor but the girl's heart was captured by the handsome Americano and she persuaded her father to consent to their union. A Dominican friar of Lower California was engaged to marry them, but at the last moment, after the wedding guests had assembled, the friar's courage failed him and he refused to go on with the ceremony as the governor had sent his aide to forbid the marriage. Here was a dilemma, but the Yankee skipper was equal to it. Off the coast was not only his own vessel, but the *Vulture*, commanded by his friend, Captain Richard Barry. The next night the lady's cousin, Pio Pico, mounted on his fleetest steed took her up on his saddle and galloped swiftly to the shore at La Playa, where a boat from the *Vulture* was waiting, and the lovers were re-united on board. At Valparaiso they were married and the following year Fitch made his appearance in command of the Mexican bark *Leonor*, having his wife and infant son on board. He was promptly arrested and imprisoned in the mission of San Gabriel while his wife, taken from him, was delivered into the hands of a duenna. After a trial, during which Fitch proved the validity of his marriage, he was released, his wife was restored to him, but he was required to perform some acts of penance, in view of the "great scandal he had caused in the province," and to give a bell of at least fifty pounds weight to the church at Los Angeles. Another daughter of Joaquin Carrillo, Ramona, whose beauty and charm is so rapturously described by Richard Henry Dana, Jr., married, first, Romauldo

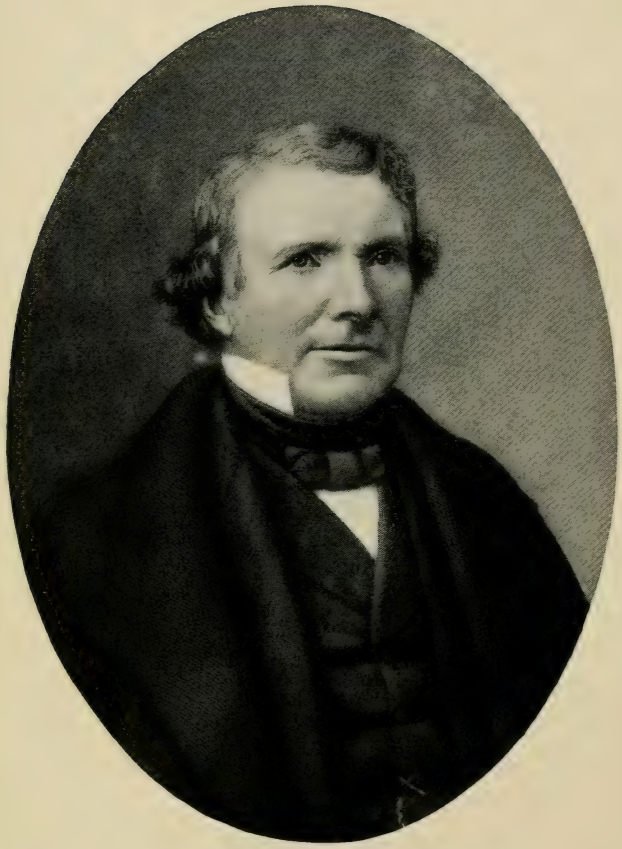
Pacheco, who lost his life in battle between rival chiefs, and later, married Captain John Wilson, master of the English brig *Ayacucho*, whose seamanship won the admiration of the young Dana. Wilson was a Scotchman.

In 1823 Daniel Hill, a native of Massachusetts, came from Honolulu as "piloto" of the *Rover*, Captain J. B. R. Cooper. He was baptized in 1824 as Daniel Antonio. In 1825 he was married to Rafaela Luisa Sabina, daughter of José Vicente de Ortega, and great-granddaughter of the pathfinder, José Francisco de Ortega. Daniel Hill's daughter, Rosa Rafaela Antonia, married Nicholas Augustus Den, a young Irishman who came in the American bark *Kent* in December, 1836, landed at Monterey, and soon went to Santa Barbara where he settled permanently and married Rosa Hill in 1843. He was collector and later, alcalde of Santa Barbara, grantee of Dos Pueblos, San Antonio, and San Marcos ranchos, and was lessee of the Santa Barbara mission. He was a man of high character and excellent reputation, prominent in the affairs of the district, and his honesty and generous nature gained him many friends while his great influence was ever exerted for the betterment of those around him.

In 1832 the Mexican brig *Catalina* put in at Monterey and landed James Black, a Scotch sailor about twenty-six years old, sick with typhoid fever. On his recovery he hunted for a while for the Hudson's Bay company, became acquainted with Vallejo, who induced him to settle at Sonoma and gave him the Cañada de la Jonive rancho, of two leagues (8,877 acres), which, after his naturalization and marriage was regularly granted to him in 1845. This rancho he later exchanged for Jasper O'Farrell's interest in the Nicasio rancho in Marin

NICHOLAS AUGUSTUS DEN

Born in County Kilkenny, Ireland, in 1812; died at Dos Pueblos rancho, Santa Barbara county, March 3, 1862; came to California on the American bark *Kent* and settled in Santa Barbara where he was naturalized and married Rosa Rafaela Antonio, daughter of Daniel Hill, great-granddaughter of José Francisco de Ortega, the Pathfinder of the Portolá Expedition of 1769, of José Ignacio Olivera of the same expedition, and of José Vicente Felix of the Anza Expedition of 1776. Don Nicolás became a very prominent citizen of Santa Barbara, held several public offices, was a man of the highest reputation, and left an enviable record of service to his state and community.





county. In 1850 he was judge and in 1852–3 was assessor. He married Agustina Sais, daughter of Juan Sais, a soldier of the San Francisco company who was born in Monterey in 1779. James Black's daughter, Maria Agustina, became the wife of Doctor Galen Burdell, a native of New York, who came in 1849 as doctor on the ship *Duxbury* and was the first scientific dentist in San Francisco.

Josefa, daughter of Carlos Antonio Carrillo, of Santa Barbara, married Captain William G. Dana, of Boston, master of the Hawaiian brig *Waverly*; her sister, Encarnacion, married Thomas W. Robbins, master of the schooner *Santa Barbara;* Manuela married John Coffin Jones, master of the American bark *Volunteer;* and Maria Antonia married Lewis T. Burton, a trapper and trader who came with the Wolfskill party in 1831. These were all Americans.

Captain J. B. R. Cooper of Alderney, captain of the Mexican schooner *Rover*, married Encarnacion Vallejo, sister of the general. William S. Hinckley, of Boston, master of the *Corsair*, American brig, married Susana, daughter of Lieutenant Ignacio Martinez. William H. Davis, born at Honolulu, son of an American father, supercargo of the American bark *Don Quixote*, married Maria de Jesus, daughter of Joaquin Estudillo. He married, second, a daughter of Ignacio Martinez. Alfred Robinson, agent for Bryant and Sturgis and later for the Pacific Mail, married Ana Maria, daughter of José de la Guerra. Henry Dalton, supercargo of the *Soledad*, married a daughter of Agustin Vicente Zamorano. Teresa de la Guerra, daughter of José de la Guerra, married W. E. P. Hartnett, an English

merchant, who came in 1822, representing Begg and Company of Lima. Her sister, Doña Angustias, married, first, Jimeno Caserin, secretary of state, and after Jimeno's death, married Doctor James L. Ord, U. S. A. Maria Antonia, the youngest daughter of José de la Guerra, married Cesáreo Lataillade, vice-consul of Spain, and after Lataillade's death, she married her cousin, Gaspar Oreña, and is still living in Santa Barbara (1915). William H. Thomes, the writer, gives a most fascinating picture of her at the age of sixteen, when he visited Santa Barbara in 1843. The beautiful Arcadia Bandini, daughter of Don Juan, married Abel Stearns, of Los Angeles,* and after Stearns' death she married Robert S. Baker. Three of her sisters also married Americans. Bandini's daughters were all noted for their beauty. The four handsome daughters of José Joaquin Estudillo married Americans. The superiority of the Californians over the Mexicans in appearance, language, and dress was noted by all travelers, and the hospitality exercised by them knew no bounds.† These and many other foreigners who married into the Spanish families became a part of that early civilization known as the "Golden Age of California."

*Don Abel Stearns was considered the homeliest man in California and his wife was called the handsomest woman. The couple were known as the "Beauty and the Beast."

†"The old Californian or Castilian families are still in the ascendancy, but the young Americans and other foreigners are making terrible inroads upon, and carrying off their fair daughters. * * * The young señoritas certainly possess many attractions. * * * In deportment they are exceedingly gentle and ladylike. * * * Their complexion is generally as fair as the Anglo-Saxon. * * * The California ladies are as slender and delicate in form as those of our Atlantic States. I was struck, too, with the elegance and purity of their language, which presented a marked contrast with the corrupt dialect spoken in Mexico. The Californians as a people appear superior to the Mexicans." *Personal Narrative*, by John Russell Bartlett, New York, 1854, *Vol. II, p. 73-4.*

JAMES BLACK

Born at Inverness, Scotland, Janaury 1, 1806; died June 12. 1870; came to California, a sailor, in 1832 being landed by his captain at Monterey sick with typhoid fever. In 1843 he was naturalized and married Agustina, daughter of Juan Sais and obtained grant of Cañada de la Jonive which he later exchanged with Jasper O'Farrell for a part of the Nicasio rancho. In 1850 he was judge, and in 1852-3 was assessor of Marin county. He left a very large estate.

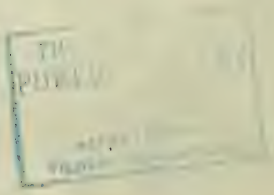
merchant, who came in 1822, representing Begg and Company of Lima. Her sister, Doña Augustias, married, first, Joseph Cassin, secretary of state, and after Joseph's death, married Doctor James L. Ord, U. S. A. Maria Antonia, the youngest daughter of José de la Guerra, married Charles Lataillade, vice-consul of Spain, and after Lataillade's death, she married her cousin, Caspar Orena, and is still living in Santa Barbara (1915). William H. Thomes, the writer, gives a most fascinating picture of her at the age of sixteen, when he visited Santa Barbara in 1843. The beautiful Anita, [illegible] married Jean Jacques Vioget, and after Abel Stearns' death she married [illegible] Carrillo. Rosario also married [illegible] Carrillo. These are all noted [illegible] of José Joaquin Estudillo, [illegible] The superiority of the Californians over the Mexicans in appearance, language, and dress was noted by all travelers, and the hospitality exercised by them knew no bounds.† These and many other foreigners who married into the Spanish families became a part of that early civilization known as the "Golden Age of California."

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JAMES BLACK



Into the Arcadian simplicity of this life came organized bands of rough men armed with rifles and revolving pistols. Many of these were peaceful immigrants, armed for protection against Indians, seeking homes in a country where they had been told that land was to be had for the asking and that the conditions of life were more favorable than in the country they were leaving behind. Such immigrants were usually accompanied by their families and had every incentive for peaceful and regular lives. Others were of a rough, disorderly character, from the mountains and western frontier settlements, men who settled nowhere, of wild and reckless nature and disorderly habits. They were largely hunters and trappers, ready for a fight or a carouse, and impatient of restraint; who regarded the Spanish owners of the soil—whom they designated as Greasers—as on a par with Indians and other "varmint," and were quite as ready to kill the one as the other. They came into California in 1843-4 and 1845 as others of their class had gone into Texas ten years earlier, looking for trouble, determined to acquire the territory by the filibuster method, and making no secret of their intentions. That the so-called Bear Flag party was composed largely of this class of citizens is evidenced by Frémont's instructions to send a party of men "who have nothing to lose and everything to gain"* to commit depredations against the Californians, and it is clear from the insolent manner in which some of Frémont's men conducted themselves†

*Volume III, *Chapter I, p. 41.*
†Ibid, *Chapter I, p. 9-13.*

in the Santa Clara and Salinas valleys that his own force was not free from them.

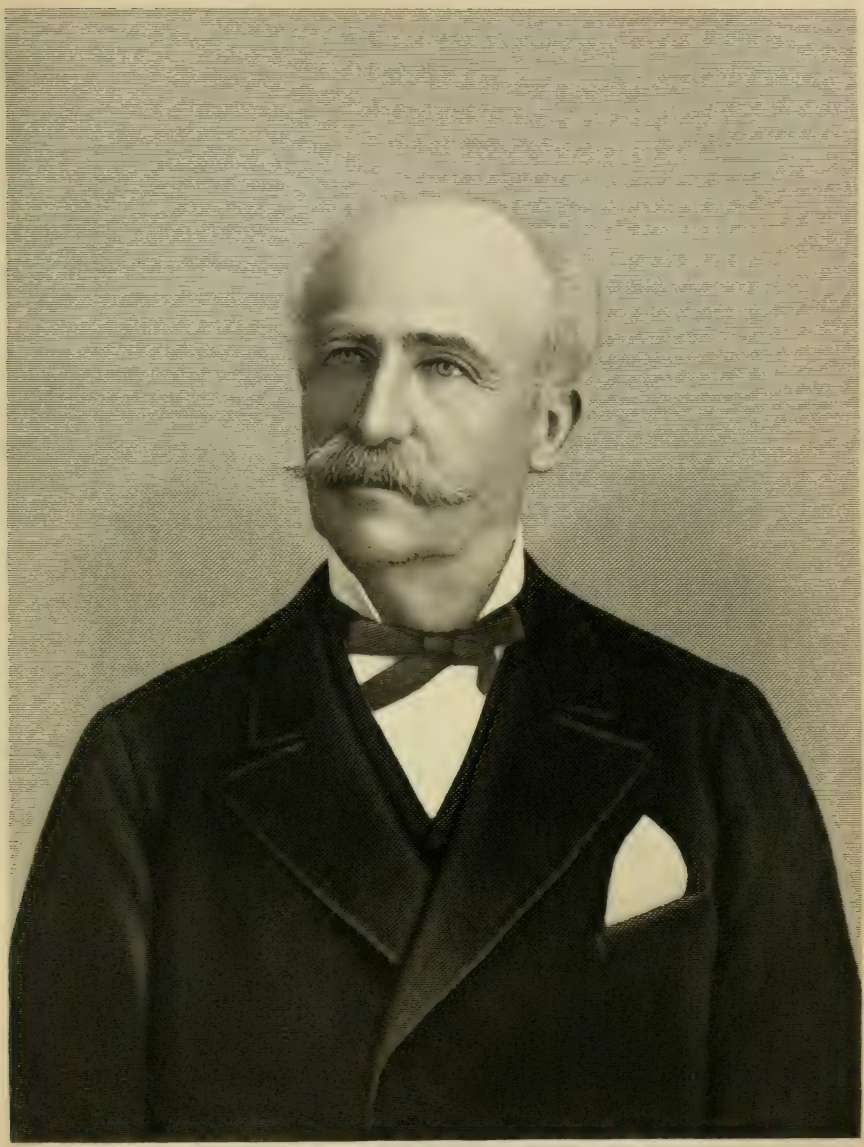
The episode of the Bear Flag war and the subsequent conquest of California was calculated to interrupt the friendly relations heretofore existing between the Californians and the Americans and the antagonism thus provoked was increased by the unjust treatment the Californians received from their conquerors in land matters following the gold immigration of 1849 and subsequent years, all of which left behind it a heritage of bitterness and hate which the association of more than half a century has not entirely removed. With the present generation, this is but a tradition, and the extensive mingling of blood and a better understanding on both sides have done much to soften the memories of harsh and contemptuous treatment.

The gold immigration brought to California men of every degree—including a goodly proportion of the scum of creation. It was a migration of young, strong, courageous men, and it was only those of courage and physical strength that could endure the horrors of that terrible journey. It was a survival of the fittest. The decade preceding the gold discovery had been a period of poverty with the great mass of the people of the eastern states and they were obliged to practice the closest economy. Most of the farms were mortgaged, and many a young man joined the California emigration hoping to pick up gold enough in a year or two to pay off the mortgage on the old homestead. But with most of the companies, whether by sea or land, were men of desperate fortunes: gamblers, thieves, and murderers. To these,



DR. GALEN BURDELL

Born at Adams Corners, Jefferson county, New York, June 26, 1827; died at Olompali, Marin county, California, April 8, 1906; came to California on the ship *Duxbury* from Rio de Janeiro, arriving at San Francisco, August 22, 1849. He was a practicing dentist in New York City and went on a vacation to Brazil and was about to return home when the opportunity presented itself to make the trip to California which he did, fully expecting to return to New York. His marriage to Maria Agustina, daughter of James Black and granddaughter of Juan Sais connected him with the *ancien régime* in California.



Galen B. Burdeee



the absence of law gave assurance of unlimited opportunity for preying upon a community rich, careless, and lavish in the use of money, while to many of the ordinarily respectable members of society, freedom from the restraining influences of family and the orderly rule of convention, operated like a draught of fiery liquor on an unaccustomed brain, and all kinds of excesses were indulged in by men of hitherto sober lives gone mad with the excitement of dissipation. At length the activities of the vicious and criminal element became so bold and defiant that the people were roused and put down the disorders with a strong hand.

In the course of time the habit of drinking in barrooms became less prevalent as the establishment of homes made the resort to the saloon less necessary, and the legislature passed laws in 1852, 1855, and 1857 against gambling. When the men of the gold immigration began to realize that they were not to be here for a few months or years and began to send for their families there was an immediate change for the better. The rough woolen shirt, slouch hat, big boots with trousers tucked into them, disappeared from the streets of the cities and towns, and in their places were seen the high hat, the frock coat, the laundered shirt, and polished boots. The shops, too, began to display attractive goods for wear and for household use. In the mining camps the appearance of a woman attracted general attention and she was treated with a chivalrous respect that was also, in a degree, extended to the less reputable class. In the mining counties in 1850 women formed but two per cent of the population.

and in the state, less than eight per cent. By 1852 some 30,000 women had come to California—mostly Americans—and the express companies arranged to bring the families of such pioneers as were unable to go after them. A miner going east for his family would bring the families of several of his friends. At the present time the sexes are about equal in the state.

In the early gold period every man was a law unto himself and each maintained equal natural rights and privileges. There was no aristocracy but all met on a common level; distinctions of caste were forgotten and the college graduate and the common laborer dug for gold or worked for wages side by side. In time the angularities of the ungainly and illiterate wore off in the contact with educated men, and in the free and unrestrained life all were broadened. The strong and self reliant found here the opportunity denied them in a previous condition and the record of notable achievement has been continuous. By the early miners mountains were removed and rivers turned from their courses that the hidden gold might be recovered. A little later the continent was girt with railroads, and in agriculture, the desert has been redeemed and the wilderness transformed into a prosperous state. Progress has been made in manufacture, in education, and in the arts and sciences.

While character and enterprise take a leading rank in California, education and intelligence stand, on the average, higher among the masses than probably in any other country. Previous to the conquest educational facilities among the Spanish population were rather slight. With the Americans came the establishment

of public schools, as related in the first chapter of this volume. Liberal provisions were made by the state, and congress granted to it the sixteenth and thirty-second sections of land for school purposes.

The constitution of 1849 provided for the establishment of a state university, and directed that the proceeds of all lands given or to be given by the United States or by individuals for the use of a university should remain a permanent fund, the income of which was to be applied to the support of the university, for the promotion of literature, the arts and sciences; and in an ordinance adopted by it the convention preferred a request to congress for seventy-two sections of land in the state to be conveyed to it for use and support of a university.

In the first session of the California legislature, held in San José, notice was given of a bill to be introduced to provide for a college of mines. This was followed up in the second session, but nothing came of it. In 1851 the legislature passed a law providing for a distribution of the school funds among the religious and sectarian schools. This law was overthrown in 1852, but reënacted in 1853, and again repealed in 1854. In 1855 began a movement to divert the university funds and distribute them among the various colleges then established and to be established in the state and these attempts did not cease until the passage, in 1868, of the bill creating the University of California.

We have seen, in a previous chapter, the arrival on the first steamer, the *California*, of the Rev. Samuel H. Willey, a young graduate of Dartmouth college, who came as a missionary, intending to remain two years,

but meeting at Monterey a young lady who came with the family of General Bennet Riley he decided to remain longer, for the lady became his wife. From the first Mr. Willey took the greatest interest in California and in everything pertaining to her welfare and progress. He opened the first school in Monterey, in 1849, and we have seen him in the constitutional convention as chaplain. From the first his mind turned to the higher education of the youth of California and in conjunction with Frederick Billings, Sherman Day, and others, he applied to the first legislature for a charter for a college. In 1853 came Henry Durant, a native of Massachusetts, who in June of that year opened a school on Broadway and Fifth street, Oakland, with three pupils and an expense for rent and wages of three hundred dollars a month. It was a hard struggle for existence, and a little later the school was removed to a new location, occupying four blocks bounded by Twelfth, Fourteenth, Franklin, and Harrison streets. Mr. Durant had come to California with the purpose of founding a university fully formed in his mind. He called his Oakland school the "College School" to signify that it was but a preparation for the coming college. On April 13, 1855, the College of California was incorporated with thirteen trustees, among whom were Henry Durant and Samuel H. Willey. It was not the intention to begin instruction until a college class had been prepared at the school. The intervening years were to be employed in seeking funds. The chief agent in this work was the Rev. Mr. Willey. In 1860 the college began its formal career with a faculty of six, at the head of which was Henry Durant, and a freshman class of eight.



BERKELEY
The Campus, University of California

UC-NRLF
The Regents, University of California





On the 5th day of March, 1868, a bill to create and organize the University of California was introduced into the assembly by its author, John W. Dwinelle, and on the 23d of that month it received the signature of the governor, Henry H. Haight. The College of California had acquired, in addition to its Oakland property, a tract of land of rare beauty four or five miles north of Oakland, containing one hundred and sixty acres. This property the College of California, by formal act of its board of trustees, October 9, 1867, donated and conveyed to the state board of directors of the Agricultural, Mining, and Mechanical Arts College for a University of California, and in addition, it donated all its net assets to such university when established, and this being accomplished, the College of California was disincorporated. The law in recognition of the donation of the College of California directed that the college of Agriculture should be first established, and that the colleges of Mechanics, Mines, and Civil Engineering, should follow in order.

The university is under control of a board of regents, consisting of the governor, the lieutenant-governor, the speaker of the assembly, the state superintendent of public instruction, the president of the state agricultural society, the president of the Mechanics Institute, the president of the University, and sixteen regents appointed by the governor for a term of sixteen years.

The presidency of the university was first offered to General George B. McClellan. He declined. It was then offered to Professor Daniel C. Gilman who also declined. The regents then turned to the founder, Henry Durant, who accepted, served for two years,

and then resigned and Professor Daniel C. Gilman was elected and served from 1872 to 1875, when he resigned to found the Johns Hopkins University at Baltimore, and was succeeded by John Le Conte. The university has twelve colleges, viz: letters, social sciences, natural sciences, agriculture, mechanics, mining, civil engineering, chemistry, law, dentistry, medicine, and pharmacy; an institute of art, a school of industrial arts, a medical department at Los Angeles, a farm at Davis and one at the university in Berkeley. In 1873, Doctor H. H. Toland, who had established a medical college in San Francisco, donated it to the university, and by act of legislature Dr. Toland's name was conferred upon that college. In 1878, the Hastings College of the Law was created by act of the legislature and the act provided for its affiliation with the university. It was endowed with $100,000 by S. Clinton Hastings who paid that sum into the state treasury on condition that the state should pay seven per cent thereon for the support of the college. The control of the college is in the hands of the directors thereof, who choose their own successors as well as appoint the professors and instructors. The president of the university, however, is president of the faculty, and degrees are conferred by the regents of the university.

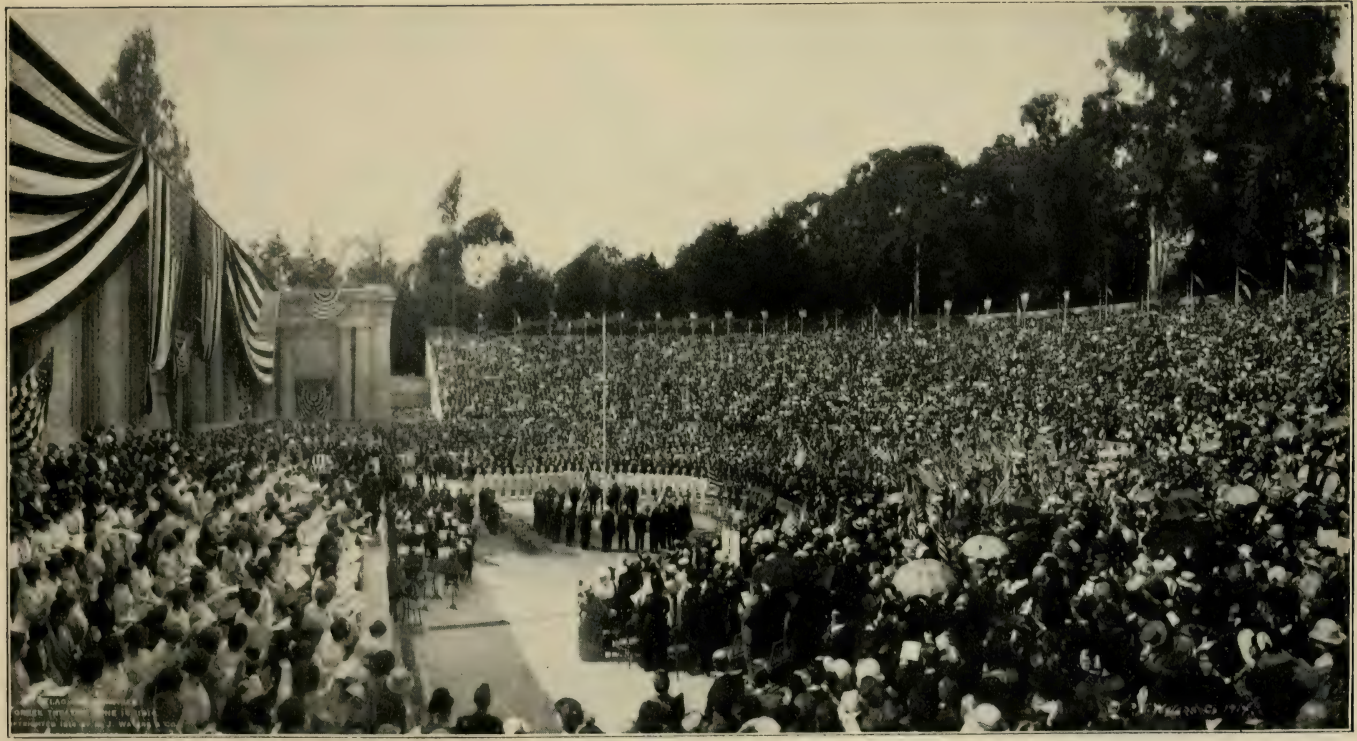
The magnificent site of the university is to be improved by the erection of a noble collection of buildings according to a plan by Emile Bénard of Paris, revised by John Galen Howard to meet the changing needs of the university. Under this plan, a gift by Mrs. Phoebe A. Hearst, has been erected to date: the Mining Building, given by Mrs. Hearst; the Greek



BERKELEY
The Greek Theatre, University of California

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Theatre, given by William R. Hearst; University Library (in part), given by Charles Franklin Doe; California Hall, built by the state; Boalt Hall, given by Mrs. John H. Boalt; Agriculture Hall, built by the state; and Sather Gate and Sather Tower, given by Mrs. Jane K. Sather. At a recent election the people voted a bond issue of $1,800,000 for the erection of several new buildings. The university has received numerous endowments and gifts amounting to several millions of dollars: notably that of the widow of George Williams Hooper, late of the lumber firm of C. A. Hooper and Company, who gave property valued at $2,000,000 for medical research. This was in memory of her husband and in fulfilment of a plan agreed upon between them some time before his death. J. C. Wilmerding left a bequest of $400,000 to the regents of the university to establish and maintain a school of industrial arts, "to teach boys trades, fitting them to make a living with their hands, with little study and plenty of work." This has been established for a number of years and is in successful operation. James Lick gave $700,000 for an observatory on Mount Hamilton, which is a department of the university and is doing excellent work.

On the 11th day of November, 1885, Leland Stanford and Jane Lathrop Stanford, his wife, united in endowing the Leland Stanford Junior University in Santa Clara county, about thirty miles south of San Francisco. This endowment was given in memory of their only son, a youth of great promise, who died in his fifteenth year. The estates granted included the Palo Alto farm, the Gridley farm, and the Vina farm, aggregating

83,000 acres, and the total endowment, in land and money, was estimated to be $20,000,000. The university has for several years been in successful operation and is destined to become one of the foremost seats of learning in the world. It opened its doors in October, 1891, with 500 students, and has now 1,897 total registration. It admits both sexes but the number of women students is limited to 500.

The University of Southern California, in Los Angeles, has a registration of 2,307 students. San Jose has the College of the Pacific, and also the College of Notre Dame, for women, and Oakland has Mills College—formerly Mills Seminary—for women: an institution of high reputation. In Santa Clara, the Santa Clara College occupies the site of the old mission of Santa Clara and some of the ancient mission buildings are still in use.

The California School of Mechanical Arts, endowed by James Lick, is in successful operation in San Francisco, as is the Cogswell Polytechnic College, endowed by Doctor Henry D. Cogswell. The first high school opened its doors in San Francisco in 1856. The second high school was opened in Sacramento in 1859, and later high schools were begun in Marysville, Grass Valley, Nevada City, Oakland, Los Angeles, San Jose, and Vallejo, in the order named. In 1884 the state university adopted the accrediting system, by which high school graduates are admitted to the university without examination. There are now nearly two hundred high schools in the state, and there are six state normal schools, the first of which was opened in San Francisco, July 21, 1862, but later (1871) removed to

San Jose. The other state normal schools were established: Los Angeles in 1882, Chico 1889, San Diego 1898, San Francisco 1899, Santa Barbara 1909. The public school system of California with its elementary schools, high schools, normal schools, and state university; its private schools of high order, many of them accredited to the universities, its many sectarian colleges and universities, all attest the earnestness of the citizens in matters of education.

In matters religious, it is understood, of course, that prior to the conquest there was only one denomination in California—the Roman Catholic church. About the close of the seventeenth century the Jesuit fathers undertook the conversion of the heathen of California (i. e. Lower California) at their own expense, and to that end individual members of the society, together with other pious persons, contributed a sum to begin this work and as it proceeded other contributions came in until quite a large amount had been collected. With this money it was determined to establish a separate special fund or capital, the income of which should form a permanent endowment for the missionary church. For this purpose the first contribution received was from the congregation of Nuestra Señora de los Dolores, of the city of Mexico, which contributed $10,000, and Don Juan Caballero y Ozio, who donated $20,000 more, and assured Father Salvatierra who, with Father Kino, was in charge, that in case of any unforeseen emergency he might draw on him and he would honor his drafts, large or small. The example of Don Juan was followed by other wealthy persons and the fund grew to large proportions and became known as the Pious Fund

of the Californias (*Fondo Piadoso de las Californias*). Some of the contributions were very large, one amounting to $240,000 and another to about $120,000. The work of converting the heathen went on apace until at the end of seventy years the Jesuits had thirteen missions in Lower California. In 1768 the Jesuits were expelled from the Spanish dominions and their temporalities were seized by the crown. This included the Pious Fund, but this, being a trust, was so regarded, and the properties of the fund were administered by officers appointed for that purpose, and the income was devoted to the religious uses for which they were dedicated by the donors. The missions of Baja California were ordered to be placed in the hands of the Franciscan friars but later when the missions of Alta California were begun, those of Baja California were given to the Dominican friars and the Franciscans confined themselves to the missions of Alta California, the income and product of the Pious Fund being divided between both orders.

On the declaration of Mexican independence Mexico succeeded to the crown of Spain as trustee of the Pious Fund and it continued to be managed and its income applied as before until September 19, 1836, when Alta and Baja California were erected into an episcopal diocese and Francisco Garcia Diego was made bishop thereof and took upon himself the administration of the Pious Fund as trustee.

On February 8, 1842, so much of the law of September 19, 1836, as confided the management, investment, etc., of the fund to the bishop, was abrogated by a decree of Santa Anna, then president of the republic, and the

JAMES LICK

Born at Fredericksburg, Pennsylvania, August 25, 1796; died at San Francisco, October 1, 1876; came to California on the brig *Lady Adams* from Callao, arriving at San Francisco, January 7, 1848. He was a piano-maker by trade and lived for over 20 years at Buenos Aires, Chile and Peru. Lick brought with him to San Francisco a small fortune which he invested mostly in city property and which made him very wealthy. He left an estate valued at three million dollars which he devoted to public uses. His chief benefaction was the erection of an observatory on Mount Hamilton for which was to be constructed a telescope, "superior to and more powerful than any telescope yet made," the observatory, telescope, land, etc., to be conveyed to the University of California.

Lick's body lies in the base of the pier of the great 36-inch equatorial.



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trust again devolved upon the state. On October 24, 1842, another decree was made by the same authority, reciting the inconvenience and waste and expense attending the management of the properties of the fund, and directing that the properties belonging to it should be sold for the sum represented by its income, capitalized on the basis of six per cent per annum, and that the proceeds of the sale as well as the cash investments be paid into the public treasury, and recognizing an obligation on the part of the government to pay six per cent per annum on the capital thereof thenceforth. The greater part of the property was sold in pursuance of this decree for the sum of about two millions of dollars and the fund was, besides, a creditor of the state for some one and a quarter millions more—representing the occasional sums borrowed from the fund by the sovereign—the king always giving his note for the amount borrowed—and on June 24, 1824, the Mexican congress formally assumed the administration of the trust and the obligation to pay to the two orders the income thereof, but like many other obligations it rested lightly on the conscience of the republic and neither the friars nor their successor, the bishop, could obtain but a moiety of the amounts due them until at length payment ceased altogether and the Pious Fund became a tradition of the past, its origin lost in antiquity, and no papers existed in the mission archives relating to it. In 1851 the legislature of California appointed a committee to investigate the matter, but after examining all the old inhabitants as to what they knew of it, had to report that all they could discover was that there had been such a fund, and that it had amounted to a

large sum, but as to whence it came, how it arose, what it was, or what became of it, they could discover nothing.

In 1853, Archbishop Alemany,* then bishop of Monterey and successor to Bishop Diego, found in the archives of the office of his predecessor a package which upon examination proved to be a report of Don Pedro Ramirez, agent and attorney of Bishop Diego, on the Pious Fund, containing the decree of Santa Anna, a list of the property he had delivered over, and the correspondence. These papers the archbishop delivered to John T. Doyle, an eminent attorney of San Francisco, with a request to look them over and see if he had not some claim either against the United States or Mexico for indemnity by reason of Santa Anna's act of 1842. Doyle made a careful examination of the documents and followed up the examination by a study of Mexican and California history, traced the various properties back to the donors, and prepared himself to open his case upon short notice. Years passed. The archbishop gave up all thought of the claim and the attorney came to regard the case from the point of historical interest only.

In 1868 a Mixed American and Mexican Commission for settling claims was sitting in Washington and Doyle got the Pious Fund matter before them, waiving all claim for the properties sold by Santa Anna and holding only for the interest accrued since the treaty of Guadalupe Hidalgo. The two commissioners could not agree and the case was referred to Sir Edward Thornton, British Ambassador to Washington, as umpire, and he awarded

*Joseph Sadoc Alemany. He was made bishop of Monterey in 1850 and archbishop of San Francisco in 1853.

to the archbishop of California one-half of the accrued interest, $904,070.79; the other half belonging to Lower California. This award was paid by Mexico in thirteen annual installments, but she paid no interest after the award—that is, after 1869. The later claim of the United States for payment of the annual interest on the Pious Fund was ignored by Mexico, but by protocol signed by the two governments, May 22, 1902, the case was referred to the Permanent Court of Arbitration at the Hague, and on October 14, 1902, the tribunal awarded to the United States for the use of the Roman Catholic archbishop and prelates of California the sum of $1,402,682.67, deferred interest from 1869 to 1902, and a perpetual annuity of $43,050.99, in money having legal currency in Mexico. This was the first international arbitration case decided at The Hague Tribunal.

With the advent of the Americans came the Protestants and services were held by several chaplains and missionaries. The first regularly organized Protestant service in California was The Chaplaincy, organized in San Francisco, November, 1848, by leading citizens, who elected the Rev. Timothy Dwight Hunt, a native of Rochester, New York, Protestant chaplain to the citizens of San Francisco at a salary of $2,500 per annum. In July, 1849, Hunt organized the First Congregational church of San Francisco. On May 20, 1849, the First Presbyterian church was organized by the Rev. Albert Williams, who came on the *Oregon*, April 1, 1849, and services were held in a tent on Dupont street. On June 24, 1849, the Rev. O. C. Wheeler, who came on the first steamer, *California*, organized the First Baptist church and in the following

month the society erected a building on Washington between Dupont and Stockton streets. In September, 1849, came the Rev. William Taylor, a notable preacher, who organized, in October, the First Methodist Episcopal church, on Powell street. In July, 1849, came the Rev. Flavel S. Mines, who organized the church of the Holy Trinity, Episcopal, on the 22d of that month, and later in the summer established an Episcopal society in Sacramento. The Rev. Samuel H. Willey came up from Monterey and organized the Howard Presbyterian church on Mission street, San Francisco, on land given by W. D. M. Howard. In Sacramento the First Congregational church was organized in September, 1849, by the Rev. J. A. Benton, and in October of that year, the Rev. Isaac Owen, who came across the plains, organized the Methodist Episcopal society of Sacramento. The Rev. Sylvester Woodbridge who came on the first steamer, *California*, organized in April, 1849, a Presbyterian church in Benicia.

Notwithstanding the wickedness and levity and recklessness so prevalent in 1849 and 1850, the ministers were well received by the people in the towns and in the mines. They preached in the streets, in front of the saloons and gambling houses, and were everywhere treated with respect; all the boats running on the Sacramento and San Joaquin rivers gave them free passes, and many of the stage lines did the same.

The decade between 1860 and 1870 was an important one for California. This period saw the transition from the exploitation of the miner, who recked nothing of the land so that he forced mountain and stream to give up their hidden treasures, to that of the agriculturist, who



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clothed the silent valleys with fields of waving grain, and crowned the hillsides with thrifty vineyards; which saw the port of San Francisco crowded with masts of vessels to carry its new found wealth to distant lands; which saw the building of the Pacific Railroad and the opening of the Comstock Lode; which saw the development of trade with the Orient and the rise of men of strength and power in the mining, mercantile, and banking world. It was a period of great expectation, and speculation was rife; the one thing demanded was success and too often the means by which success was attained was overlooked or lost in the admiration accorded the prosperous.

Such was the condition of the public mind when one day in 1871 two weather beaten men, having the appearance of miners, presented themselves at the Bank of California and arranged to deposit some property of great value for safe keeping. They were Philip Arnold and John Slack, and it appeared that the property consisted of diamonds and other precious stones which they had discovered in a desert field in the far west—supposed to be Arizona. Arnold had at one time been in the employ of George D. Roberts, a very wealthy mining operator and one of the chief promoters of the scheme that followed, and he was, in a few days, introduced by Roberts to W. C. Ralston, president of the bank, and Slack was known to Asbury Harpending, a capitalist, and real estate and mining speculator. To Ralston and his friends the men made known their errand to San Francisco, which was to obtain capital to work the diamond fields they had located, for which they were willing to part with a small portion of the

property. The men seemed to be suspicious and refused to disclose the locality of their find, but after some discussion they agreed to sell a one-half interest in the diamond fields and to permit an inspection of the same by two representatives of the purchasers who, however, after having reached the wild and uninhabited country, must submit to being blindfolded going to and returning from the fields. This was agreed to and the fields were examined, the party returning with joyous reports on their genuineness and fabulous richness. The men also offered to go to the mines and bring to San Francisco a couple of millions of dollars' worth of stones and place them in the hands of the purchasers as a pledge of good faith. This offer was approved and the men left, returning some time later with a large buckskin package of diamonds. They claimed they had taken out two millions worth of stones which, for convenience of carriage, they had made into two packages, and in crossing a river had lost one package, but as the one brought contained stones of the value of a million of dollars they thought it would satisfy the proposed purchasers—the loss of a million apparently being a slight thing to these honest miners. It was now proposed to organize a company of $10,000,000 capital to exploit the fields, and a large sample of the stones was sent to Tiffany of New York for examination and appraisal, resulting in a report that the stones were genuine and were worth $150,000. As the stones selected by the purchasers were a fair sample of the lot and comprised about one-tenth of those in their possession, it argued a total value of $1,500,000 for the whole. The miners agreed to an expert examination



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of the field by Henry Janin, a well known mining engineer of high standing. This examination was made and the engineer's report confirmed all that had been claimed for the field; Mr. Janin going so far, one of the party averred, as to state that with twenty rough laborers he could wash out a million dollars' worth of diamonds a month. The ground was now cleared for the formation of the great company. There was some talk of incorporating in New York, but Ralston was firm. The company's headquarters should be in San Francisco. It was a San Francisco enterprise: the capital was raised in San Francisco, and moreover, the stones should come to San Francisco and there be cut: for it was the intention to move the great lapidary establishments of Amsterdam to San Francisco, a decision which caused the Low Countries no small concern. San Francisco was ripe for the new company. "Hardly a business man of any considerable wealth would not have considered it a rare privilege to have been admitted to participation in the enterprise on the ground floor," says Mr. Harpending, chief promoter.* But this, of course, could not be thought of. Twenty-five gentlemen representing the cream of the financial interests of the city of San Francisco, men of national reputation for high-class business standing and personal integrity, were permitted to subscribe for stock to the amount of $80,000 each, and this initial capital of $2,000,000 was immediately paid into the Bank of California. Among the directors were the California agent of the Rothschilds, and Mr. Samuel P. Barlow and Major-general George

*_The Great Diamond Hoax_ by Asbury Harpending in the San Francisco _Bulletin_, September 1—October 28, 1913.

B. McClellan, of New York. The two latter gentlemen were to be resident directors in New York, where a transfer office was to be maintained. The interests of Arnold and Slack were extinguished by a final payment to them of $300,000, making, with what had been paid before, $660,000, in all. It apparently did not occur to these guileless capitalists that this was an exceedingly small sum to pay for property capable of producing a million dollars a month and of whose product a million and a half dollars was already in their possession. However, the honest miners received their money and at once faded to invisibility.

Not only in San Francisco but in nearly every financial center of the world, the public was keyed up to a point of high speculative craze, when from the clear financial sky dropped a thunderbolt. From a small station in Wyoming came, on November 11, 1872, a telegram from Clarence King, the noted scientist, and was received by the president of the company, to the effect that the alleged diamond fields were fraudulent and were plainly "salted." There was a quick run to cover on the part of the twenty-five gentlemen representing the cream of the financial interests of San Francisco, and Mr. Harpending is authority for the statement that William C. Ralston returned to these gentlemen the subscription of $2,000,000 paid by them, losing thereby the $300,000 final payment to Arnold and Slack as well as his previous advances to those simple miners.

It appears that Clarence King, then head of the Fortieth Parallel survey, hearing the reports of the great diamond field and learning through some of his assistants that it was not located in Arizona, as supposed,

but in Wyoming and within the field-work of his survey, hastened to the designated locality for the purpose of studying the new diamond field and making his official report on what seemed to be a discovery of great national importance. Taking two or three assistants he reached his destination and soon found diamonds and rubies in abundance, but his suspicions were quickly aroused by the observations that the plainly visible stones lay directly upon the hard surface of rock where nature alone could never have placed or left them, and that none could be found in the earth or on the underlying bed rock, where, had their occurrence been genuine, the inevitable laws of nature must have carried them; with the further observation that the ant-hills, built of small pebbles mined by the ants, which were found to bear rubies on their surfaces, or in penetrating holes made with a small stick, invariably showed, in close proximity, the storm-worn footprints of mankind, while other ant-hills, without such signs of human tracks and not pierced by artificial holes, were also without rubies or precious stones of any sort. Thorough investigation proved beyond any doubt that some designing hand had "salted" the ground with deliberate fraudulent intent. Evidence was later forthcoming that large purchases of stones had been made in London and Paris during the previous winter, mostly of refuse stones of small value, and that about $35,000 had been spent in "salting" the claim.

The era of mining stock speculation reached its climax about 1876 though it was continued with more or less intensity until about 1880, when it sensibly began to abate, leaving the wrecks of the stock market high and

dry, like the refuse cast up by a flood. The frenzy was not confined to any class or condition but pervaded all, men and women, and extended throughout California and Nevada. The morning greeting between friends was not "How are you?" or, "How do you do?" but, "How are stocks?" The serving maid or the laundress saw herself a lady with an establishment, with carriage, etc., and the clerk saw his fellow clerk—without any more brains or money than he possessed—suddenly throw up his job and blossom out as a millionaire. A butcher, who furnished Flood with chops and steaks, doffed his apron and closed his shop. He left an estate of several millions. The incentive to speculate in mining stocks, when one saw great fortunes acquired all about, was almost irresistible and few were able to withstand it. This naturally led to defalcation and crime where trust funds were in the hands of an operator who saw his investments about to be swept away for want of money to make good his margins. A clerk in a large bank took $190,000 of the bank's money through a bogus account to which he transferred sums from customers who carried large balances. One bank charged off a million dollars, the loss by the manager of one of its agencies, largely through operations on his own account and for his particular friends. Another manager of an agency bought on one day for a friend $800,000 of stocks for which not a dollar of "margin" was put up, and on this one purchase several hundred thousand dollars were lost by the bank. The cashier of a large corporation speculated with the funds of the company. His operations were successful and he put the money back before his stealings were detected.



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Arches of the Court of Abundance

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The manager discovered what he had been doing and dismissed him. He snapped his fingers in the manager's face. He had $500,000 to his credit in the bank, and was allowed to get away with it. The corporation had lost no money and wanted no trouble over the embezzlement.

The public mind appeared to be demoralized. The obligations of trusteeship sat lightly on the shoulders of the unscrupulous men who obtained control of the mining companies. Not only did they use the information which they obtained concerning the condition and development of the mines under their charge for their own benefit, keeping the stockholders in ignorance thereof, but following the example set by the builders of the Central Pacific Railroad company in the forming of the Contract and Finance company, they formed milling and lumber companies, and other corporations, through which by extortionate contracts they could obtain an undue share of the proceeds of the mines, exhaust the output, or the proceeds of assessments levied upon its shareholders. A man named John H. Burke brought suit, or a series of suits, against the directors of the Consolidated Virginia and California mining companies—the so-called "bonanza" firm—alleging fraudulent contracts made with themselves for milling, assaying, and refining the bullion, supplying the mines with lumber, fuel, etc., and claiming that the stockholders were damaged to the extent of $35,000,000. Burke had but a small amount of stock and he worked for three years preparing his case. He received no help from other shareholders but a few joined him when he began to get court rulings in his favor. He won his

preliminary case and the whole affair was settled out of court and all the cases were dismissed—the statute of limitations running against any new cases that might be brought. Burke received but little encouragement from the public, for the suits depressed the value of the shares in the two mines and consequently the stock market, and was roundly abused by a venal press as a mischief-maker. The decision of the court was not made public for the case was dismissed before judgment was entered, but when the settlement was announced it was said that one of the conditions made was that the plaintiff was to leave California and trouble no more the honest conduct of mine management.

"And it came to pass when Ahab saw Elijah, that Ahab said unto him: 'Art thou he that troubleth Israel?' And he answered: 'I have not troubled Israel; but thou and thy father's house.'"

The use of their positions by directors to raise or depress the market value of shares of the mines in their control was of the commonest occurrence, and such were the degrading influences of stock gambling that little was thought of this betrayal of trust; it was expected of them and men sought the position of director for such purpose. That the essence of trusteeship is the acceptance of property or power over property to be used exclusively for the benefit of another seems to have been a doctrine unknown to either directors or shareholders, or at least, entirely disregarded by them. These strictures, however, need not be confined to California. Recent developments in the case of the New Haven and other roads might be cited—not to excuse Californians, but to give them company in the dock.

The creation of corporations within corporations for the purpose of absorbing the enormous profits of railroad building, of mining and reducing ores, and of other corporate enterprises, together with the manipulation of the stock market, has created some swollen fortunes in California; but such things are condemned by the better class;* and it may be said that the reign of the robber baron is past, and that admiration for his success is confined to the small band of retainers who still regard the good old rule of Rob Roy,

> ——————————"The simple plan,
> That they shall take who have the power,
> And they shall keep who can."

By 1881 the stock speculation period had about spent itself; not because of a reform among the people, but because a decline of production of the Comstock Lode rendered it impossible to sustain the market and induce speculation. The weary and bedraggled wrecks of the stock market, male and female, move feebly up and down Pine and Leidesdorff streets comforting themselves and each other with the oft repeated formula that "Mackay (or some other power) will be here next week and then things will move," until hope dies and the last offices to the worn out body are performed by charitable friends.

The destruction of the city of San Francisco by earthquake and fire in 1906 is given in another place,† and it only remains to give a brief account of the noted graft

*In his message to the legislature in 1872 Governor Newton Booth sharply criticised the practice by which mine operators in control managed to divert into their own pockets all the gold extracted by paying extortionate prices to subsidiary companies for performing services which should have been performed by the companies for the benefit of the body of stockholders.

†*Vol. V, Chap. XIX.*

prosecutions in that city. The street railroad system of the city had, with the exception of two or three lines, been gathered under the head of the Market Street Railroad company, and an attempt was made, without success, to change the method employed for moving its cars, from the cable to the overhead electric system. This was vigorously opposed by the citizens who were content with the cable cars and did not desire to have their streets ornamented with trolley poles and wires. On the 11th day of October, 1901, the Market Street Consolidated Railway company which had been capitalized at about $32,750,000 was sold to a group of eastern capitalists for par for its stock and bonds, and a new organization, known as the United Railroads of San Francisco, took its place. The new railroad was capitalized (stock and bonds) at about $80,000,000 and thus a system, which had cost to build and equip not to exceed $12,000,000 to $14,000,000 was expected to earn interest and dividends on more than $80,000,000. These roads, with the exception of one or two minor lines were all cable roads. In the evolution of street transportation the change from horse power to cable line, while very expensive in its initial cost, reduces the operating expenses two-thirds, and it is estimated that the expense of operation by overhead trolley is nearly one-half less than that of the cable. When the San Francisco roads changed from horse cars to cable cars they took up the slack by heavy increase of capitalization, and the fares remained the same as before the change. This capitalization was further increased when the lines were consolidated under the head of the Market Street company, built and owned by the Central Pacific railroad builders.



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The Avenue of Palms and the Tower of Jewels





The United Railroads now renewed the effort to obtain permission to use the trolley system. It offered to pay to the city $200,000 for the privilege of erecting poles on Market street, but the people refused to listen to the song of the siren, and preferred to keep Market street clear of trolley poles. After the San Francisco fire of 1906 the need of street transportation was very great and one or two streets were cleared of debris and trolley poles erected under a temporary permit in order to provide quick means of travel; this permit was extended to other streets as fast as they could be sufficiently cleared to permit the passage of cars, until finally most of the lines of the United Railroads were provided with poles and wires. This was with the full consent and approval of the citizens. Then without previous notice an ordinance was introduced and rushed through making the provisional grant permanent. The ground taken was that the earthquake had ruined the cable tunnels and it was freely stated, and believed by many people, that by reason of liability to earthquakes San Francisco was unsuited to cable road transportation. The pretense was false. The earthquake did not injure the cable tunnels and as soon as the companies could rebuild their engine houses, the cables on two roads—the California and Geary streets—were started up, and that of the California is running today. The labor party was in power, having not only the mayor but the entire board of supervisors, and great was the indignation of the citizens at this betrayal of trust. It transpired that the United Railroads had paid to the labor agent, Abraham Ruef, $200,000 to be divided among the mayor and supervisors for the privilege of

the overhead trolley and the mayor and supervisors were indicted for this and for other similar crimes, and indictments were also found against Patrick Calhoun, president, and the other officers of the railroad company. Confessions were secured from the eighteen supervisors and from Ruef and strong efforts were made to convict the railroad officials of bribery, but all failed owing to the character of the testimony—that of self-confessed boodlers—and Calhoun's connection with the payment of money could not be established. Eugene Schmitz, the mayor, was convicted of receiving bribes and removed from office and Dr. Edward R. Taylor appointed in his place. One by one the guilty supervisors resigned and other citizens were appointed until the entire administration was reconstructed. Ruef was convicted of receiving and paying bribes, and the eighteen grafting supervisors were given immunity for assisting in the prosecution of the "higher ups." There were many charges of bribery and it was brought out that every person or corporation that was obliged to go to the city for permit of any kind was, under the able management of Ruef, "held up" and made to pay. The city was in ruins and every builder, contractor, and owner was made to pay tribute. Sometimes, as in the case of the telephone companies, all parties were assessed. In the telephone matter, the Pacific Telephone company was in possession. The Home Telephone company applied for permission to enter. One company paid each supervisor $3,000 to let them enter; the other company paid the supervisors $5,000 apiece to keep them out.

The supervisors accepted both. The grand jury indicted officers of the gas company, the telephone companies, the Parkside Realty company, and others. The city was divided into two camps: those who thought Calhoun had a right to buy supervisors and those who thought he ought to go to jail. The feeling ran high; the talk was bitter; and life-long friends passed each other without speaking. The case of the prosecution was badly managed and the defense employed acute attorneys for the purpose of heckling the judge to cause him to lose his temper and make errors. In this they had some success, and in the case of the mayor, Schmitz, a reviewing court reversed the conviction and on subsequent trial he was declared "not guilty." On the 18th day of May, 1912, all of the untried graft cases were ordered dismissed, leaving the only person to suffer punishment for his crimes, Abraham Ruef, the arch-boodler, who received the full extent of the law—fourteen years in the penitentiary. But while the prosecution failed to send many grafters to jail, so near to it were some of them drawn that the dark air of the felon's cell penetrated them with a chill that will not soon be forgotten, and the effect of the whole will be a greater respect for the law.

The short period which has elapsed since California joined the sisterhood of states has seen momentous changes within her border. Not only is this apparent in the physical characteristics of the country but in the people as well. They have had their trials and have met every change with fortitude. The Californian has been fortunate in his selection of ancestors. He

comes of a race of strong men, and as years gather more and more upon him, he estimates more and more highly his debt to preceding ages. He no longer writes success with a dollar mark but considers the ethics of his place in the body politic, and is reaching for higher ideals, for nobler pursuits.

APPENDIX

The Terry-Broderick Duel

TERRY to BRODERICK

Hon. D. C. Broderick: Oakland, September 8th, 1859.

Sir: Some two months since, at the public table of the International hotel in San Francisco, you saw fit to indulge in certain remarks concerning me, which were offensive in their nature. Before I had heard of the circumstance, your note of 20th of June, addressed to Mr. D. W. Perley, in which you declared that you would not respond to any call of a personal character during the political canvass just concluded, had been published.

I have, therefore, not been permitted to take any notice of those remarks until the expiration of the limit fixed by yourself. I now take the earliest opportunity to require of you a retraction of those remarks. This note will be handed to you by my friend, Calhoun Benham, Esq., who is acquainted with its contents, and will receive your reply,

D. S. Terry.

BENHAM to BRODERICK

When Mr. Benham delivered this letter, Mr. Broderick remarked that he would answer it on the following day. Mr. Benham suggested that an earlier reply would be desirable, but Broderick did not change his determination, and after leaving him Benham sent Broderick the following note:

Hon. D. C. Broderick: San Francisco, Sept. 8th, 1859.

Sir: Should you have occasion to communicate with me sooner than the time agreed upon between us, I will be found at the Metropolitan Hotel. I omitted to leave my address this morning.

Very respectfully your obedient servant,

Calhoun Benham.

BRODERICK TO TERRY

Hon. D. S. Terry: San Francisco, September 9th, 1859.

Sir: Your note of September 8th reached me through the hands of Mr. Calhoun Benham. The remarks by me in the conversation referred to may be a subject of future misrepresentation; and for obvious reasons, I have to desire you to state what were the remarks that you designate in your note as offensive, and of which you require of me a retraction.

I remain, etc.,
D. C. BRODERICK.

TERRY TO BRODERICK

Hon. D. C. Broderick, San Francisco, September 9, 1859.

Sir: In reply to your note of this date, I have to say, that the offensive remarks to which I alluded in my communication of yesterday are as follows: "I have heretofore considered and spoken of him (myself) as the only honest man on the Supreme Court bench; but I now take it all back"—thus, by implication, reflecting on my personal and official integrity. This is the substance of your remarks, as reported to me; the precise terms, however, in which such an implication was conveyed are not important to the question. You yourself can best remember the terms in which you spoke of me, on the occasion referred to. What I require is, the retraction of any words which were used calculated to reflect on my character as an officer and a gentleman.

I remain your obedient servant,

D. S. TERRY.

BRODERICK TO TERRY

Hon. D. S. Terry: Friday evening, 9th September.

Sir: Yours of this date has been received. The remarks made by me were occasioned by certain offensive allusions of yours concerning me, made in the convention at Sacramento, reported in the "Union" of June 25th. Upon the topic alluded to in your note of this date, my language, so far as my recollection

serves me, was as follows: During Judge Terry's incarceration by the Vigilance Committee I paid $200 a week to support a newspaper in his (your) defense. I have also stated heretofore that I considered him (Judge Terry) the only honest man on the Supreme Court bench; but I take it all back. You are the best judge as to whether this language affords good ground for offense.

I remain, etc.,

D. C. Broderick.

THE CHALLENGE

Hon. D. C. Broderick, San Francisco, Sept. 9th, 1859.

Sir: Some months ago you used language concerning me, offensive in its nature. I waited the lapse of a period of time fixed by yourself before I asked reparation therefor at your hands. You replied asking specifications of the language used which I regarded offensive. In another letter I gave you the specification and reiterated my demand for a retraction. To this last letter you reply, acknowledging the use of the offensive language imputed to you, and not making the retraction required. This course on your part leaves me no other alternative but to demand the satisfaction usual among gentlemen, which I accordingly do. Mr. Benham will make the necessary arrangements.

Your obedient servant,

D. S. Terry.

THE ACCEPTANCE

Hon. D. S. Terry, San Francisco, September 10th, 1859.

Sir: Your note of the above date has been received at one o'clock a. m., September 10th. In response to the same I will refer you to my friend, Hon. J. C. McKibben, who will make the necessary arrangement demanded in your letter.

I remain, etc.,

D. C. Broderick.

THE CARTEL

"1st. Principals to be attended by two seconds and a surgeon each; also by a person to load the weapons. This article not to exclude the drivers of the vehicles. If other parties obtrude, the time and place may be changed at the instance of either party.

"2d. Place of meeting, on the farm adjoining the Lake House ranch. The road to the farm-house leaves the old Lake House road, where you strike the first fence of the Lake House property, about a mile before you reach the Lake House. There you take a road to the left, which brings you to the farm-house, on the upper end of the lake (Laguna Merced), occupied by William Higgins. This is the general neighborhood; the precise spot to be determined when the parties meet.

"3d. Weapons, dueling-pistols.

"4th. Distance, ten paces; parties facing each other; pistols to be held with the muzzles vertically downwards.

"5th. Word to be given as follows, to wit: The inquiry shall first be made, 'Gentlemen, are you ready?' Upon each party replying, 'Ready,' the word 'Fire' shall be given, to be followed by the words 'One, two.' Neither party to raise his pistol before the word 'Fire' nor to discharge it after the word 'Two.' The intervals between the words 'Fire-one-two' to be exemplified by the party winning the word, as near as may be.

"6th. The weapons to be loaded on the ground in the presence of a second of each party.

"7th. Choice of position and the giving of the word to be determined by chance—throwing up a coin as usual.

"8th. Choice of the two weapons to be determined by chance, as in article 7th.

"9th. Choice of the respective weapons of parties to be determined on the ground, by throwing up a coin, as usual; that is to say, each party bringing their pistols, and the pair to be used to be determined by chance, as in article 7th.

"Time, Monday, 12th September, 1859, at 5½ o'clock A. M."

TERRY'S OBJECTIONS

"On the part of Judge Terry, it is protested against the word being stopped short of the word 'three' as unusual and unwarrantable; also against the place of meeting being either in San Francisco or San Mateo County.

"Mr. Broderick's seconds answer the protest in regard to the parties being restrained by the word 'two,' that it is neither unusual nor unwarrantable, and has the feature of humanity; also, that no possible advantage can accrue to their principal by fixing the place at a remote and isolated spot, where they will not be intruded upon.

"Article numbered 5, among the articles setting forth the terms upon which the parties are to have their meeting, is objected to, because the word 'three' to follow 'two' is not to be called as the word after which neither party is to fire upon his adversary; and it is propounded to the seconds of Mr. Broderick on behalf of Judge Terry, whether or not such article (numbered 5) is insisted upon as a *sine qua non* to their meeting. A categorical answer in writing is requested.

"Article numbered 5, among the articles setting forth the terms upon which the parties are to have their meeting, being objected to, because the word 'three' to follow 'two' is not to be called as the word after which neither party is to fire upon his adversary, and it being propounded to the seconds of Mr. Broderick, on behalf of Judge Terry, whether or not said article (numbered 5) is insisted upon as a *sine qua non* to their meeting, and a categorical answer in writing being requested of Mr. Broderick, it is responded by his seconds, that, having in the terms asked nothing but what their principal is entitled to, and the terms not subjecting their adversary to any disadvantage, the request is deemed improper, it being always reserved to them, the friends of Judge Terry, to accept or decline the proposed terms."

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